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DEPARTMENT OF HEALTH CARE AND FAMILY SERVICES~~PUBLIC AID~~

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: State Responsibility for Medicare Part D Low-Income Subsidy
- 2) Code Citation: 89 Ill. Adm. Code 127
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 127.10 | New Section |
| 127.20 | New Section |
| 127.100 | New Section |
- 4) Statutory Authority: The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed rules describe the Department's responsibilities related to the Medicare Part D low-income subsidy (LIS) as mandated by the federal Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003. The MMA creates a voluntary prescription drug benefit for Medicare beneficiaries under a new Medicare Part D. These new rules govern administrative action concerning determinations of LIS eligibility made by the Department.

Medicare Part D prescription drug coverage will take effect January 1, 2006. Medicare beneficiaries who enroll for drug coverage will be required to pay premiums, deductibles and coinsurance. However, beneficiaries with incomes under 150 percent of poverty and modest assets will be eligible for additional federal assistance, the LIS, to cover a portion of their out-of-pocket costs for Medicare prescription drug coverage. Beneficiaries who meet certain qualifications will receive the LIS automatically, and others must apply for it. The Social Security Administration (SSA) intends to receive and process most LIS applications. Both SSA and the federal Centers for Medicare & Medicaid Services have asked states to encourage all potential applicants to apply to SSA. Nonetheless, the MMA requires that single state Medicaid agencies also make determinations of LIS eligibility upon request beginning July 1, 2005. The process the Department will follow to satisfy the MMA and federal guidelines will be established under these new rules.

These proposed rules are not expected to result in any budgetary changes.

- 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 proposed rulemaking contain incorporations by reference? No

DEPARTMENT OF HEALTH CARE AND FAMILY SERVICES~~PUBLIC AID~~

NOTICE OF PROPOSED RULES

- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed rules do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 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: These proposed rules were not included on either of the two most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Rules is identical to the text of the Emergency Rules that appears in this issue of the *Illinois Register* on page 10254:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES ~~PUBLIC AID~~

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3) Section Number: 147.150 Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 94-0085
- 5) Complete Description of the Subjects and Issues Involved: This proposed change responds to Public Act 94-0085 under which implementation of the new Minimum Data Set (MDS) rate methodology for the nursing component of the rates for nursing facilities will be extended from July 1, 2005 to July 1, 2006. Delaying implementation of the MDS-based system will allow the Department to continue development of the MDS monitoring system and provide additional time for the Department to continue work with the long term care industry in preparing for use of the MDS. This change will not result in any budgetary changes.
- 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 proposed amendments pending on this Part? Yes

| <u>Section Numbers</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|------------------------|------------------------|-----------------------------------|
| 147.125 | Amendment | May 27, 2005 (29 Ill. Reg. 7682) |
| 147.150 | Amendment | May 27, 2005 (29 Ill. Reg. 7682) |
- 10) Statement of Statewide Policy Objectives: This proposed amendment does not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES ~~PUBLIC AID~~

NOTICE OF PROPOSED AMENDMENT

Office of the General Counsel, Rules Section
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded nursing facilities will be affected
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment that appears in this issue of the *Illinois Register* on page 10266:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Child Care Institutions and Maternity Centers
- 2) Code Citation: 89 III. Adm. Code 404
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 404.2 | Amended |
| 404.4 | Amended |
| 404.5 | Amended |
| 404.6 | Amended |
| 404.7 | Amended |
| 404.9 | Amended |
| 404.11 | Amended |
| 404.12 | Amended |
| 404.18 | Amended |
| 404.22 | Amended |
| 404.25 | Amended |
| 404.28 | Amended |
| 404.31 | Amended |
| 404.33 | Amended |
| 404.37 | Amended |
| 404.38 | Amended |
| 404.44 | Amended |
| 404.47 | Amended |
| 404.49 | Added |
| 404.50 | Renumbered |
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10] the Child Product Safety Act [430 ILCS 125]
- 5) Effective Date of Amendments: July 1, 2005
- 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 materials 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: 28 Ill Reg. 8947; 7/2/04

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- 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:

Section 404.9, Composition and Responsibilities of the Governing Body.

The proposed requirement that a member of the board of directors may not derive profit by reason of his or her membership on the board for services provided to the board of directors was clarified to indicate that the restriction does not apply as long as the goods and services provided are at or below market value.

Section 404.37, Health and Safety.

The restriction keeping sharp tools and cleaning supplies in areas inaccessible to children was modified to allow the use of some of these tools and supplies when used for skill building for children age 12 and older and with appropriate supervision.

Section 404.49, Transportation.

The requirement that the driver of a vehicle transporting children must submit to the Department a copy of his or her medical exam was changed to require that the facility maintain a copy of the medical exam on file for inspection when needed.

- 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: In addition to formatting and grammatical corrections, the Department is amending Part 404 as follows:

In Section 404.2, the requirement of Law Enforcement Agency Data System (LEADS) checks for persons ages 13 through 17 has been deleted. The name for the Illinois Sex Offender Registry has been corrected. To be consistent with federal regulations, “forestry camps and facilities operated for the detention of children who are determined to be delinquent” has been added to the exclusion list of child care institutions. The definition

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

of SACWIS (Statewide Automated Child Welfare Information System) has been added. SACWIS has replaced the Child Abuse and Neglect Tracking System (CANTS).

In Section 404.4, requirements for a complete application have been added to include the institution's exempt status; list of persons owning more than five percent of the stock of the corporation along with the list of names, addresses and contact phone numbers of board members; lists of standing committees and documentation showing compliance with local zoning regulations.

In Section 404.5, additional requirements for license renewal have been added: the applicant is to submit a current list of members of the board, staff list including documentation of licensure, and documents if changes were made in the institution's statement of purpose, range of services and code of ethics.

In Section 404.6, institutions are to develop a code of ethics policy and shall display their license in areas visible to the public.

In Section 404.7, when requesting a permit, the governing body of the institution shall sign the application request and attest to be in compliance with local zoning regulations.

In Section 404.9, the conflict of interest policy to be developed by institutions and maternity centers shall include the requirement that the institution will avoid nepotism or the appearance of it. The institution's governing body shall notify the Department within two days after a change of the administrator and within 30 days after other major changes.

In Section 404.11, the effective date has been added for the provision for administrators who are deemed qualified by serving in that capacity for a minimum of five years at the institution. A requirement was added for notification to the Department when there is a change of administrators.

In Section 404.12, the position of Program Administrator has been added as an option for the administrative coverage.

In Section 404.18, residents in the institution may use their own personal physician to perform medical functions required by the institution.

In Section 404.22, requirements for in-service training are listed.

In Section 404.25, discharge criteria and procedures have been added.

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In Section 404.28, requirements have been added that children be supervised at all times. The institution shall consider a mother's cognitive abilities, age and number of children residing with the mother in the institution when considering staff ratios, which shall be approved by the Department.

In Section 404.31, the institution shall assure that children's personal valuables accompany the child when he or she leaves the facility.

In Section 404.33, language was added indicating that institutions are to deposit children's personal funds above \$300 in insured accounts and that the transfers of money and properties among youths and between staff and youth is prohibited.

In Section 404.37, the acceptance of children's medical examinations by an advanced practice nurse or physician assistant was added according to provisions in P.A. 92-703. Safety standards protecting children from sharp instruments and hazardous items, as well as the requirement that staff are to protect children at all times and not subject them to corporal punishment, have been added.

In Section 404.38, to meet the nutritional needs of the children in care, the food guide pyramid provided by the U.S. Department of Agriculture is to be used in preparing food.

Section 404.47 clarifies the requirements for reporting a child's unusual incidents. In addition, it clarifies the requirements for reporting new hires and changes of the administrator.

The new transportation standards have been added as Section 404.49.

Section 404.49 has been renumbered as Section 404.50.

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

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

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 404

LICENSING STANDARDS FOR CHILD CARE INSTITUTIONS
AND MATERNITY CENTERS

Section

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| 404.44 | Buildings |
| 404.45 | Grounds |
| 404.46 | Equipment |
| 404.47 | Records and Reports |
| 404.48 | Records Retention |
| 404.49 | Transportation Severability of This Part |
| <u>404.50</u> | <u>Severability of This Part</u> |

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

SOURCE: Adopted and codified at 5 Ill. Reg. 13070, effective November 30, 1981; amended at 7 Ill. Reg. 3424, effective April 4, 1983; amended at 8 Ill. Reg. 22870, effective November 15, 1984; amended at 9 Ill. Reg. 19712, effective December 20, 1985; amended at 11 Ill. Reg. 17504, effective October 15, 1987; amended at 21 Ill. Reg. 4488, effective April 1, 1997; amended at 24 Ill. Reg. 17031, effective November 1, 2000; emergency amendment at 26 Ill. Reg. 6868, effective April 17, 2002, for a maximum of 150 days; emergency expired September 13, 2002; amended at 27 Ill. Reg. 508, effective January 15, 2003; amended at 29 Ill. Reg. 9976, effective July 1, 2005.

Section 404.2 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

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NOTICE OF ADOPTED AMENDMENTS

"Background check" means:

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

"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 institution" means a child care facility where more than 7 children are received and maintained for the purpose of providing them with care or training or both. The term "child care institution" includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year, but does not include:

- any State-operated institution for child care established by legislative action;
- any juvenile detention or shelter care home established and operated by any county or child protection district;
- any institution, home, place or facility operating under a license pursuant to the Nursing Home Care Act [210 ILCS 45];
- any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or elementary and high schools, and which operates on a regular academic school year basis; ~~or~~
- any facility licensed as a "group home" as defined in the Child Care Act

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of 1969 (Section 2.06 of the Child Care Act of 1969); ~~or-~~

- for purposes of this Part, forestry camps, training schools or any facility operated primarily for the detention of children who are determined to be delinquent.

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

"Deemed status" means the Department has approved an institution or maternity center as in compliance with the requirements of this Part because the institution or maternity center:

- 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 institution or maternity center.

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

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

"Initial background check" means the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) Child Abuse and Neglect Tracking System and the Illinois Statewide Child Sex Offender Registry.

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

"License applicant", for purposes of background checks, means the operator or

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~~person~~*persons* with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969)

"Licensee" means those individuals, agencies or organizations who hold a license or permit issued by the Department.

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

"Maternity center" means a facility in which any person, agency or corporation, other than one licensed as a foster family home or group home under the Child Care Act of 1969, receives, treats or cares for one or more unwed pregnant girls under 18 years of age, except that the term does not include any facility licensed under the Hospital Licensing Act. (Section 2.07 of the Child Care Act of 1969)-

"Permit" means a one-time only document issued by the Department for a six-month period to allow the ~~individual~~*individual(s)*, agency or organization to become eligible for a license.

"Persons subject to background checks" means:

- the ~~operator~~*operator(s)* of the child care facility; and
- all current and conditional employees of the child care facility; and
- any person who is used to replace or supplement staff; and
- any person who has access to children, as defined in Section 385.20, Definitions, of 89 Ill. Adm. Code 385, Background Checks.

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

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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"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).

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.4 Application for License

- a) Application for license shall be completed by the officers of the governing body of the institution, ~~or its authorized representative~~ on forms prescribed and furnished by the Department.
- b) For the application to be considered complete, the following shall be attached to the application:
 - 1) articles of incorporation and bylaws, indicating that the institution's corporate status is in good standing with the Illinois Secretary of State and specifying whether the institution is for profit or not-for-profit;
 - 2) 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 institution's exemption status from Federal income tax and registration with the Charitable Trust Bureau of the Attorney General's Office (if applicable);
 - 3) a statement of purpose, including the types of child care provided;
 - 4) 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 contact phone number other than the agency's telephone number, of the board chair and officers of the board and name of the list of officers, board members and committees of the governing body;
 - 5) list of standing committees;

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- ~~6)~~ documentation of compliance with local zoning regulations;
 - ~~74)~~ operating budget;
 - ~~85)~~ range of services;
 - ~~96)~~ staffing plan which includes job descriptions and the qualifications of staff; ~~and~~
 - ~~107)~~ a list of persons subject to the background check requirements of 89 Ill. Adm. Code 385; ~~(Background Checks);~~ and each person's complete, signed authorization to conduct the background check; ~~and~~;
 - ~~11)~~ a code of ethics adopted by the governing body. This code of ethics 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 E. Monroe Street, Station #65, Springfield, Illinois 62701, May 1996, or found on the Department's website at www.state.il.us/dcf).
- c) A new application shall be filed:
- 1) when an application for license has been withdrawn, and the institution seeks to reapply;
 - 2) there is a change of address of a facility;
 - 3) there is a change of ownership, name or corporate status; or
 - 4) not sooner than 12 months after the Department has revoked or refused to renew a license, and a new license is sought.
- d) A new application may be submitted at any time a license, permit or application has been voluntarily surrendered or withdrawn by the applicant.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.5 Renewal of License

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a) Application

- 1) License renewal application~~Application~~ forms ~~for license renewal~~ shall be mailed to the institution by the Department six months prior to the expiration date of license. Officers of the governing body shall submit the~~The~~ completed application ~~shall be submitted~~ to the Department three months prior to the expiration date of the license. The child care institution or maternity center shall also include with the application verification of any accreditations earned. For a renewal application to be considered complete, the following shall be attached to the application:
 - A) a current list of names and addresses of owners, officers, board members, principal shareholders owning more than 5% of the stock of the corporation;
 - B) a staff list, including name and job title, indicating those who are licensed to practice as a direct child welfare employee required in 89 Ill. Adm. Code 412.40; and
 - C) the following documents, if changes were made to them since the last application or renewal:
 - i) statement of purpose;
 - ii) range of services; and
 - iii) code of ethics.
- 2) Upon receipt of the application for license renewal, the Department shall conduct a license study in order to determine that the institution continues to meet licensing standards. The licensing study shall be in writing; reviewed and signed by the licensing supervisor and the licensing representative performing the study.
- 3) *When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature 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*

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further extend the period in which such decision must be made in individual cases for up to 30 days, if good cause is shown. [205 ILCS 10/5(d)] "Good cause" includes but is not limited to shortages of staff.

- b) Acceptance of Accreditation as Deemed Status
- 1) When a child care institution or maternity center is fully accredited by the Council on Accreditation for Children and Family Services, Inc. (Council on Accreditation), 120 Wall Street, 11th Floor, New York NY 10005 (2001 standards) and there have been no substantiated licensing violations that affect the health, safety, morals, or welfare of children served by that facility for the last four years, that child care institution or maternity center is deemed to be in compliance with the program requirements of this Part.
 - 2) The Department shall verify in writing with the Council on Accreditation that the child care institution or maternity center's accreditation continues to be in good standing and shall conduct annual monitoring visits to verify the continued compliance of the facility with the requirements of this Part.
 - 3) If licensing violations are substantiated against an accredited child care institution or maternity center, the Department licensing worker shall notify in writing the Council on Accreditation of the substantiated violations. The facility shall receive a copy of this notice.
 - 4) If a substantiated licensing violation may affect the health, safety, morals, or welfare of the children served by the child care institution or maternity center, the institution or maternity center shall be removed from deemed status and a full license study shall be conducted as part of the license renewal process.
- c) Renewal Application Under Deemed Status
- 1) A child care institution or maternity center in deemed status doing business with the Department shall submit to the Department Regional Office of ~~Central~~-Licensing:
 - A) Signed and completed renewal application on a form provided by the Department;

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- B) Written description of any change in the institution's ~~tax~~corporate exempt status, charitable trust registration, and range of services provided;
 - C) List of current employees, including the name of the Administrator;
 - D) List of current board members, including their names, home phone numbers, and addresses;
 - E) Copy of any Corrective Plan currently placed on the institution;
 - F) Copy of additional information submitted by the institution to the Council on Accreditation, including:
 - i) Institution's consumer surveys' results;
 - ii) Information regarding any "hold" on the institution's intake placed by the Council on Accreditation, including: was the hold for any part of the current license sequence; was the institution on hold at the time of renewal; reason for the hold, and duration of the hold status; and
 - iii) Copy of the most recent Annual Maintenance of Accreditation Report the institution filed with the Council on Accreditation;
 - G) Copy of letter the institution has from the Council on Accreditation for Children and Family Services showing that the institution is fully accredited.
- 2) The Department shall obtain the following information from other sources about the institution in deemed status doing business with the Department:
- A) Results of the institution's financial audit and any documented financial problems;
 - B) The number of indicated child abuse/neglect investigations and licensing complaint investigations; and

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- C) Council on Accreditation confirmation that the institution is fully accredited and in good standing.
- 3) Institutions and maternity centers not doing business with the Department shall submit to the Department:
- A) Signed and completed renewal application on a form provided by the Department;
 - B) Written description of any change (if applicable) in the institution's corporate exempt status, charitable trust status and range of [services provided](#);
 - C) List of current employees, including the name of the [Administrator](#);
 - D) List of current board members, including their names, home phone numbers and addresses;
 - E) Copy of information the institution submitted to the Council on Accreditation regarding results of or information about the institution's consumer surveys;
 - F) Copy of the last Annual Maintenance of Accreditation Report the institution filed with the Council on Accreditation;
 - G) Copy of letter the institution has from the Council on Accreditation showing that the institution is fully accredited; and
 - H) Copy of the institution's most recent audit.
- 4) The Department shall obtain the following information from other sources about the institution in deemed status that is not doing business with the Department:
- A) Number of indicated child abuse/neglect investigations and licensing complaint investigations;
 - B) Council on Accreditation confirmation that the institution is fully accredited and in good standing

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- d) Removal of Institution or Maternity Center from Deemed Status
The following shall occur before the Department is to remove a child care institution or maternity center from deemed status:
- 1) The Department shall have documentation of one or more substantiated violations that affect the health, safety, morals or welfare of children served by the institution or maternity center's program.
 - 2) After review and confirmation of the substantiated violation by the licensing supervisor and manager, the Central Office of Licensing shall submit a recommendation for removing the institution from deemed status to a 5-member panel comprised of representatives from the Divisions of Quality Assurance, Purchase of Service Monitoring, and Program Operations, and the Offices of Child and Family Policy and Licensing.
 - 3) The 5-member panel shall review the recommendation for removal from deemed status.
 - A) If the panel concurs with the recommendation, the panel shall forward the recommendation to the Director for final approval.
 - B) If the panel does not concur with the recommendation, the institution or maternity center will maintain deemed status.
 - 4) The Department shall notify the institution or maternity center in writing of the Director's decision to remove or maintain the [institution facility](#) in deemed status.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.6 Provisions Pertaining to License

- a) A child care institution license is valid for four years unless revoked by the Department or voluntarily surrendered by the licensee.
- b) The child care institution shall adhere to the provisions specified on the license.
- c) The following changes in licensing status shall occur only upon prior approval of the Department:

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- 1) the age or characteristics of children served;
 - 2) the licensed capacity; or
 - 3) the area within the institution used for children.
- d) The license shall not be transferred to another person, or other legal entity, nor shall it be valid for a name or an address other than that shown on the license.
- e) The license capacity of the institution shall not be increased unless the facility is in compliance with licensing standards.
- f) A current license shall be displayed at the institution [in an area visible to the public](#) at all times.
- g) There shall be no fee or charge for the license.
- h) [The institution's code of ethics adopted by the governing body 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 E. Monroe Street, Station #65, Springfield, Illinois 62701, May 1996, or found on the Department's website at \[www.state.il.us/dcfs\]\(http://www.state.il.us/dcfs\)\).](#)**

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.7 Provisions Pertaining to Permits

- a) A permit shall not be issued until:
- 1) the application for license has been completed and signed by [an officer of the governing body of](#) the ~~responsible~~-child care institution [or maternity center](#) and submitted to the Department;
 - 2) written clearances concerning compliance with the fire, health, sanitation, [local zoning](#), and safety requirements as specified in ~~State~~ laws and municipal codes are received. If well water is used, a copy of the inspection report and certification of compliance with local or [Illinois Department of Public Health](#)~~state health department~~ regulations is on file;

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- 3) a person in charge of the administration and operation of the child care institution who has passed the background check requirements of 89 Ill. Adm. Code 385, Background Checks has been employed;
 - 4) furnishings, equipment and space sufficient for the number of children to be served have been acquired;
 - 5) child care staff sufficient for the number of children to be served have been hired;
 - 6) a written plan has been filed which requires provision of food, clothing, educational and religious opportunities and health care of children to meet the physical, spiritual, mental and health needs of the children;
 - 7) the facility has established procedures and forms to maintain required and necessary records including records on the children served;
 - 8) a written plan on how the requirements for licensure will be met has been developed within the permit period;
 - 9) references and medical reports on all staff, including the administrator, are on file at the institution; and
 - 10) demonstration of financial capability through a projected budget and letters of commitment from the sources of income specified in the budget.
- b) A permit shall not be issued retroactively.
 - c) The permit shall not be transferred or transmitted to another person or other legal entity.
 - d) The permit shall not be valid for a name or an address different than the name and address shown on the issued permit.
 - e) The permit shall not be renewable.
 - f) The permit shall be displayed on the premises in an area visible to the public at all times.
 - g) A license shall be issued any time within the six month period covered by the

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permit provided the facility achieves and maintains compliance with the Department's licensing standards.

- h) There will be no fee or charge for issuing the permit.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.9 Composition and Responsibilities of the Governing Body

- a) The governing body of an institution incorporated not-for-profit shall be a Board of Directors composed of at least five persons. All board members shall be of reputable and responsible character. The governing body shall be responsible to the Department for maintaining the standards set forth in this ~~Part~~part.
- b) If incorporated as a not-for-profit corporation, the governing body shall adopt a conflict of interest policy that requires, at a minimum:
- 1) that no member of the board of directors may derive any personal profit directly by reason of his or her membership on the board of directors or because of services provided to the board (the restriction of deriving profit from a transaction does not apply as long as the goods or services provided to the center or institution are priced at or below market value, and are documented and accessible for review by the Department or its auditors upon request);
 - 2) that each board member must disclose to the board any personal interest that he or she or any immediate family member may have in any current or potential matter before the board and refrain from participating in any decision on such matters; and
 - 3) that no member of the administrator's or the chief financial officer's immediate families shall serve on the board of directors for the child care institution or maternity center and no member or any board member's immediate family may serve as administrator, the chief financial officer, or independent contractor of the institution.
- c) If incorporated as a for-profit corporation, the board shall adopt a code of conduct.
- db) The governing body shall:

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- 1) establish written by-laws;
- 2) assure that the institution operates at all times with an on-site administrator, who, by official notice, is made known to the Department;
- 3) hold at least ~~four~~two meetings annually;
- 4) keep records of minutes of all Board meetings reflecting official actions of the Board;
- 5) officially notify the Department in writing within two days after a change in the administrator of the institution or within 30 days after any major changes in the corporate structure, including, but not limited to:
 - A) changes in the articles of incorporation or bylaws; ~~of any major changes in the corporate structure, or a change in the administration of the institution, including: articles of incorporation and bylaws, board membership, officers, and other changes in services provided by the institution;~~
 - 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;
 - C) addition of any principal shareholder owning at least five percent of the stock of the corporation;
 - D) changes in the governing body or its officers; and
 - E) other changes in services provided by the institution;
- 6) establish written policies of the institution which shall be made available to all board members and employees including services to be provided by the institution: admissions, personnel policies, fiscal operations, care of children and other policies as needed to direct the institution, such as family visitation, community contacts with children and the functions of the administrator;
- 7) provide and maintain physical facilities appropriate for the program and

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supporting services;

- 8) maintain and keep all records and documents required by this ~~Part~~ in the State of Illinois where they shall be readily available for licensing review;
- 9) assure fidelity bonding of fiscally responsible officers and employees, elected or appointed, whether or not compensated by salary, against breach of fiduciary duty or the loss of monies, securities or other property which the institution may sustain through any fraudulent or dishonest act or acts committed by any officer or employee acting alone or in collusion with others; and
- 10) assure that all persons working with children are of reputable character.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.11 The Administrator

- a) The administrator is that person designated by the board or ~~owner~~owner(s) to carry out established policies and procedures and the day-to-day management of the institution.
- b) An administrator shall have:
 - 1) a Master's Degree from an accredited school of social work and three years' work experience with children, at least two of which were in institutional or other residential group care programs and at least an additional two years of administrative experience; or
 - 2) a Master's Degree in a human services field from an accredited school and three years work experience with children, at least two of which were in institutional or other residential group care programs and at least an additional two years of administrative experience; or
 - 3) a Bachelor's Degree from an accredited college or university, five years' work experience with children, at least three of which were in institutional or other residential group care programs and an additional two years of administrative experience.

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- c) All persons currently serving as administrators who have served in that capacity for a minimum of five years prior to April 1, 1997 at the institution where currently employed~~immediately preceding the implementation of this part~~ shall be deemed qualified.
- d) If there is no social work supervisor, the administrator shall, in addition, meet the qualifications for a social work supervisor as defined in Section 404.19; ~~(Social Work Staff)~~.
- e) A person/persons shall be appointed to act in behalf of the administrator when the administrator is absent.
- f) If the administrator is to be on leave for more than one month or has left prior to a replacement, the Department shall be notified of the name of the person appointed as acting administrator. The acting administrator shall have the qualifications of an administrator. The notification to the Department shall include documentation that the acting administrator meets the qualifications to be an administrator.
- g) The Department shall be notified when there is a change of administrator. The notification shall include documentation that the individual meets the qualifications to be an administrator.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.12 Administrative Coverage

- a) The institution shall not be left at any time, or under any circumstances, without a properly designated, administratively responsible person on the premises. The designated administratively responsible person may be the child care worker for each unit, with the administrator, or someone designated by the administrator, to be on call.
- b) Program Administrator
The administrator may delegate certain program responsibilities to a program administrator. These may include day-to-day management of the program for children, supervision of program staff, staff development and training, educational activities and other services to children. The program administrator shall have:

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- 1) a Master's Degree from an accredited school of social work and 3 years' work experience with children, at least 2 of which were in institutional or other residential group care programs; or
- 2) a Master's Degree in a human services field from an accredited school and 3 years work experience with children, at least 2 of which were in institutional or other residential group care programs; or
- 3) a Bachelor's Degree from an accredited college or university, 5 years' work experience with children, at least 3 of which were in institutional or other residential group care programs.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.18 Medical and Health Services

- a) A qualified physician working in collaboration with the administrator shall be designated to assure that comprehensive medical and health services are provided according to the needs of the children and the requirements of this part.
- b) The on-call physician shall:
 - 1) be a physician licensed in the State of Illinois to practice medicine in all its branches;
 - 2) be on the premises at regular intervals but not less than once per month to personally observe and evaluate medical and health services;
 - 3) participate in the establishment of the institution's written medical policies and supervise the medical and health program of the institution, including admission and periodic examinations, immunizations and treatment programs, unless the resident has his/her own personal physician to perform these functions;
 - 4) review all prescriptions monthly and authorize their continuance in writing, unless the resident has his/her own personal physician to perform these functions;
 - 5) be responsible for the observation of applicable laws, rules and regulations in the prescription, storage and administration of drugs and medications;

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- 6) arrange for and supervise the locked storage, use and disposal of drugs and medications and allow for standing orders from children's individual physicians for the dispensing of medications prescribed by them;
- 7) designate persons responsible for administering medications prescribed to the children to be present when medications are dispensed. Medications shall be consumed when a staff member is present; and
- 8) advise on the qualifications and appointment of other medical consultants and specialists whose services are required.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.22 Staff Training

- a) There shall be an organized in-service training program to equip child care personnel to meet the individual and group care needs of the children.
- b) The in-service training program shall include content designed to familiarize staff with:
 - 1) licensing rules, including this Part;
 - 2) 89 Ill. Adm. Code 384 (Behavior Treatment in Residential Child Care Facilities);
 - 3) program and range of services provided by the facility;
 - 4) child development principles; and
 - 5) the Abused and Neglected Child Reporting Act [325 ILCS 5].

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.25 Criteria for the Admission and Discharge of Children

- a) The institution shall establish written admission policies.
- b) Children shall be admitted only upon written consent or application of parent or

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guardian, upon court order, or, in emergency situations, upon authorization of an officer of the law or a Department child protective services worker. No person who has attained age 18 shall be admitted unless referred by a parent or a guardian, including an agency having legal responsibility for the person under 705 ILCS 405/2-27~~Ill. Rev. Stat. 1983, ch. 37, par. 705-7.~~

- c) The institution shall assess with the referring agency, child and/or family the child's need for placement, the purpose for referral to the specific institution, and the institution's ability to serve the child.
- d) A plan for services for the child and family shall be in writing, shall be reviewed at least every 6 months, and shall be signed by all the parties involved. The plan shall describe the services to be provided, describe how they will meet the needs of the child and family, describe how they are directed toward resolution of the need for placement, and establish a time frame for termination of services and care in the facility.
- e) Referrals from and acceptance of out-of-state children for care shall be in accordance with 89 Ill. Adm. Code 328~~the~~ (Interstate Compact on the Placement of Children) and other applicable laws and rules.
- f) ~~Prior to~~No child shall be accepted for placement, ~~without the~~ information and documents about a child shall be obtained from the respective parent or guardian or from the referring agency at the time of admission; however, if any of this information does not exist, is not available, or is not provided, the institution shall include in its record a written statement from the referral source to that effect.
- g) The information and documents shall include:
 - 1) name, birthdate, sex, race, religion, legal status and current address of the child;
 - 2) names, addresses and telephone numbers of parents, significant relatives, guardian, referring agency and referring agency social worker;
 - 3) name and address of the school last attended, current placement, school report and/or information on the child's educational needs;
 - 4) name, address and telephone number of the doctor, clinic or hospital currently or recently treating the child;

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- 5) financial and insurance resources available to the child; and
 - 6) listing of prior placements with length of time and reasons for placement and change.
- h) Medical data about the child shall include:
- 1) complete medical history including current problems, medications and handicaps, past health conditions such as diseases, allergies and surgeries, immunizations and dates, and a report of the most recent physical examination;
 - 2) all available information pertaining to the health history of the child's family; and
 - 3) if any of this information regarding medical history of the child or family of the child does not exist, the institution shall include in its record a written statement from the referral source to that effect.
- i) Social data about the child and his family describing pertinent past experiences and circumstances leading to the child's admission shall include:
- 1) significant behavioral problems of the child;
 - 2) child's strengths and areas of need;
 - 3) physical description of the child;
 - 4) current family situation;
 - 5) relationship of child and family or other significant adults;
 - 6) relationship of child to peers, adults;
 - 7) immediate and long-range goals;
 - 8) results and dates of prior psychiatric or psychological evaluations or tests; and

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9) consents and agreements as required.

j) Any child who, after attempts have been made to meet the child's individual needs, demonstrates the inability to benefit from the type of care offered by the institution, or whose presence is detrimental to the group, shall be discharged from the institution.

k) In all instances, when an institution decides that it is in the best interest of the child to terminate enrollment, the child's and parents' or guardian's needs shall be considered by planning with the parents or guardian to meet the child's needs when he or she leaves the institution, including referrals to other institutions, agencies or facilities.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.28 Child Care Groupings

a) Groupings and supervision of children shall provide for individual attention and consideration of each child. Groups shall consist of a maximum of 15 children.

b) Child care staff shall provide appropriate supervision to children at all times.

cb) There shall be:

1) no more than 12 children when there are children between 6 and 12 years of age in the group;

2) no more than 5 children when there are children between 2 and 6 years of age in the group; and

3) no more than 6 children when there are children under 2 years of age in the group.

de) In case of an emergency the institution must be able to provide for the safety of the children.

~~d) Institutions which were licensed prior to the effective date of this part shall have two calendar years from that date to comply with these groupings.~~

e) Two or more groups may share common programs and living accommodations

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but sufficient numbers of child care workers shall be maintained.

- f) Children under 18 years of age whose parents serve as staff members maintaining a residence in the institution shall be included in determining the license capacity if they:
- 1) live in the same quarters as children accepted for care; and
 - 2) have been admitted for direct care by the institution on the same basis as other children.
- g) The institution shall assign one or more child care workers for direct supervision of each group to be on duty and readily available while the children are awake and on the premises. Girls shall be under the direct supervision of adult female staff while in their living quarters.
- h) For night time supervision, there shall be at least one person on duty and awake for each two groups occupying common or attached living quarters. Girls shall be under the direct supervision of adult female staff during the night. Additional staff shall be on call in case of emergency or other need.
- 1) The awake night staff requirements may be waived in writing by the Director of the Department or his designee for an institution, or that portion of an institution, wherein groups of up to ten children are the responsibility of child care staff who share family style living quarters.
 - 2) A request for a waiver of the night staff requirement shall be in writing and it shall be the responsibility of the facility to demonstrate that the well-being of the children will be protected by other means. No waiver may be granted for a group wherein one or more children has been diagnosed as mentally retarded, developmentally disabled or physically ~~incapacitated~~incapacitated.
- i) Each child shall be assigned to a group and shall be provided his own bed and readily accessible storage space where he may keep his personal belongings and possessions.
- j) When the needs of individual children dictate, additional staff may be required to meet the needs of all children. The appropriate ratio shall be determined through

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consultation among the parent/guardian, staff, resource personnel and the Department.

- k) Maternity centers where mothers have their children residing with them at the center shall consider the age of the mother, her cognitive abilities and the age and number of children residing with the mother when considering staffing ratios in the facility program plan. The Department shall approve ratios.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.31 Clothing and Personal Belongings

- a) Children shall be supplied with clothing required for their health, comfort, and physical well-being, according to their individual needs, age, and sex.
- b) Clothing items shall be individually selected, properly fitted, appropriate to the season, and in accordance with the standards of the community. A child who is old enough to do so, shall be involved in the selection of his own clothing.
- c) All items shall be supplied in quantities necessary for school and other special uses.
- d) Clothing shall be appropriately identified for the child's own use.
- e) No used shoes or used undergarments shall be provided to a child.
- f) Donated clothing shall be selected with care to eliminate the use of shoddy, torn, or soiled garments, outmoded styles and improper sizes.
- g) A suitable supply of clothing shall accompany the child upon discharge from the institution.
- h) The facility shall assure that a child's personal valuables brought to 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 the placement.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

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Section 404.33 Allowances

- a) Personal allowance money shall be available to children based upon the child's age and ability to manage money. Adolescents may be allowed to earn additional personal spending money.
- b) The institution shall assist the child in the proper handling of money.
- c) The institution shall have procedures for maintaining and managing a separate account for each child's 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. The institution shall ensure a safe and secure environment for the physical protection of other forms of the child's financial assets.
- d) 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 does not apply to the common practice in families and foster families to transfer outgrown clothes or equipment.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.37 Health and Safety

- a) Each child shall be examined by a physician, advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the performance of health examinations by the supervising physician, within 30 days prior to placement in the institution unless the placement is an emergency. In an emergency placement, the physical examination shall be scheduled within 5 days after placement and completed within 15 days after placement. In all cases each child shall be screened for communicable diseases within 72 hours.
- b) Children shall be examined annually or more frequently if findings and medical opinions indicate need. Diagnosed medical problems shall be promptly treated.
- c) Dental examinations shall be given at least annually. Diagnosed dental defects shall receive prompt treatment; however, recommended orthodontia~~orthodonture~~ shall be referred to the child's legal guardian.

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- d) In the absence of any religious exemptions, immunizations and tests shall be administered in accordance with standard medical practices and as required by the Illinois Department of Public Health.
- e) If treatment is in process for any physical impairment which requires continuing or follow-up medical attention, the parent, guardian or other facility to whom the child is discharged shall be so notified.
- f) The institution shall have a written plan for use in case of fires and natural disaster. The institution shall conduct fire and disaster drills with staff and children at least once every three months. Records of such drills shall be kept. At least once every six months, a fire marshal or other authority responsible for public safety shall view the drills.
- g) Household pets shall be inoculated as required by state and local regulations.
- h) No firearms or ammunition shall be allowed in the institution.
- i) The facility may not use or have on the premises, on or after July 1, 2000, any unsafe children's product as described in the Children's Product Safety Act and 89 Ill. Adm. Code 386 (Children's Product Safety).
- j) Sharp scissors, plastic bags, knives, cigarettes, matches, lighters, flammable liquids, prescriptions and over the counter medications, sharp instruments, power tools, cleaning supplies, and any other such items that might be harmful to children shall be kept in areas inaccessible to children. Hazardous items for infants and toddlers also include coins, balloons, safety pins, marbles, Styrofoam[®] and similar products, and sponge, rubber or soft plastic toys. Items such as cleaning supplies, kitchen utensils, used for skill building for children age 12 and older, shall be used with appropriate staff supervisions.
- k) All cleaning compounds, pesticides, fertilizers and other potentially hazardous or explosive compounds or agents shall be stored in original containers with legible labels in a locked area that is inaccessible to children.
- l) Staff shall not abuse or neglect children and shall protect children from harm at all times.

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- m) No child shall be subjected to corporal punishment, verbal abuse, threats or derogatory remarks about the child or the child's family.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.38 Food and Nutrition

- a) Food shall be prepared and served using the food guide pyramid provided by the United States Department of Agriculture Center for Nutrition to meet provide the recommended dietary allowances (R.D.A.) for the nutritional needs of the children ~~in accordance with those standards currently set by the National Academy of Sciences, Food and Nutrition Board.~~
- b) Food products from home-raised animals shall meet the standards of the Illinois Departments of Agriculture and Public Health.
- c) Special dietary needs of children shall be met as medically prescribed.
- d) The institution shall consider nutritional needs in relationship to sex, age, religious beliefs and cultural influences.
- e) Meals shall be served under clean and sanitary conditions.
- f) Three balanced meals shall be served each day. The time span between service of one meal and the next meal shall not be greater than 14~~fourteen~~ hours (overnight).
- g) Children shall be encouraged to eat food served, but shall not be subjected to undue coercion or forced feeding.
- h) Staff members shall be present to provide supervision for children during meal times.
- i) If meals are provided to on-duty staff, they shall be substantially the same as those served children (unless a special diet due to medical needs or religious beliefs is required).
- j) Menus shall be prepared and posted one week in advance of actual service.
- k) Records of all meals actually served shall be retained for one year and shall be available for periodic review and evaluation.

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(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.44 Buildings

- a) Buildings shall be maintained in compliance with state and local ordinances for health, safety and sanitation.
- b) The institution shall receive inspection annually and clearance from:
 - 1) the Illinois Department of Public Health or local health department; and
 - 2) the Office of the Illinois State Fire Marshal, or designated local fire departments.
- c) The institution shall establish and maintain a program for the upkeep, repair, and replacement of buildings.
- d) Housekeeping and repair programs shall be scheduled and shall be the responsibility of housekeeping and maintenance personnel.
- e) No business shall be conducted on the institution premises that would intrude upon, deter, or interfere with the child care activities or services.
- f) An institution or organization proposing to construct a new child care institution, to relocate, or to undertake major remodeling of buildings shall:
 - 1) notify the Department of such plans;
 - 2) submit building plans for approval to state and local offices if required by law or regulation; and
 - 3) not allow children to occupy any buildings under construction or undergoing major remodeling.
- g) Architectural plans for new, remodeled or replaced buildings shall be suited to the child care function of the institution and its program needs.
- h) The institution shall not permit occupancy of any new, remodeled, or relocated building until state or local fire and health authorities have inspected and

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approved such buildings.

- i) Living quarters for children shall:
 - 1) be well ventilated, properly lighted, and well heated;
 - 2) be of adequate size and privacy to conform to good standards of health; and
 - 3) meet the children's basic and individual needs.
- j) Sleeping rooms for children shall:
 - 1) be separate for boys and girls over ~~six~~ years of age;
 - 2) provide at least 40 square feet of floor space per child, including rooms for single occupancy;
 - 3) provide each child with his own bed and readily accessible storage space where he may keep his personal belongings and possessions; and
 - 4) be equipped with furnishings including but not limited to chairs, tables, desks, mirrors, and bed linen, in good repair.
- k) Lavatory, bath, and toilet facilities for children shall:
 - 1) consist of one toilet and one lavatory for every ~~six~~ children;
 - 2) be equipped with hot and cold running water and shall be located near the sleeping quarters;
 - 3) be separate for boys and girls;
 - 4) consist of at least one tub or shower for every ~~ten~~ children; ~~If showers are generally used, one tub available in each unit shall be sufficient;~~ and
 - 5) be equipped with mirrors and areas for storage of toilet articles and for hanging towels and wash cloths, unless provided individually in sleeping areas.

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- l) Other living unit areas shall include:
 - 1) living rooms large enough to accommodate the free and informal use by the children of the unit;
 - 2) availability of areas for special or quiet activities of individuals and groups; and
 - 3) storage space for supplies and equipment not in use.
- m) The administrator who lives on the premises shall be provided with living quarters separate from those used by the children.
- n) Staff members who live on the premises shall be provided with sleeping rooms and bath facilities separate from those used by the children.
- o) Dining facilities and equipment shall be provided for all children and staff residing on the premises.
- p) Kitchen facilities shall provide for efficient and sanitary preparation, storage and service of food and for the proper cleaning, sanitizing and storage of all equipment and utensils in accordance with Department of Public Health requirements.
- q) There shall be adjacent, readily accessible hand washing and toilet facilities for the use of kitchen staff and helpers with posting of public health warning to remind food handlers, dishwashers, and other kitchen helpers to make use of hand washing facilities after toileting, grooming, and smoking.
- r) Children should be instructed in the proper use of laundry equipment facilities before they are permitted to use them. Appliances shall be equipped with safety devices.
- s) There shall be office facilities and equipment for efficient conduct of the institution's business affairs.
- t) Formal classrooms located on the premises shall be housed in areas so planned or arranged that one program or activity does not intrude or interfere with another.
- u) There shall be rooms on the premises where children can see family, visitors, and

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professional staff in privacy and without undue or unnecessary interruptions.

- v) Facilities including toilets, lavatories, drinking fountains and telephones shall be available to accommodate non-resident staff and visitors.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.47 Records and Reports

- a) The institution shall maintain records on each child receiving services and all agency personnel, and in addition, shall submit certain reports as prescribed by the Department. These records and reports shall be confidential. Authorized representatives of the Department shall have access to the records and reports. All persons with access to the records and reports shall respect their confidential nature.
- b) The institution shall submit to the Department of Children and Family Services such periodic and special reports as may be required.
- c) The institution shall state in the child's record and shall report to the child's parent, guardian and the Department licensing representative any unusual incidents or serious occurrences involving children. These incidents and occurrences shall be reported immediately by telephone, fax or other electronic means to the Department licensing representative and in writing, or if made verbally, confirmed in writing within 48 hours after of the occurrence. These incidents and occurrences (see 89 Ill. Adm. Code 331 (Unusual Incidents)) include serious accident or injury requiring extensive medical care or hospitalization; death; arrest; alleged abuse or neglect; major fire or other emergency situations; or any serious incident which results in legal action by or against the institution, which affects any child or children, personnel, or conduct of the institution.
- d) A permanent record and master file card shall be maintained for every child under care which shall include:
- 1) name, birthdate, sex, race, religion and legal status of the child;
 - 2) names, addresses and telephone numbers of parents, significant relatives, guardian, referring agency and social worker;
 - 3) dates of admission and termination of care;

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- 4) information pertaining to the circumstances and reasons for termination of care;
 - 5) names, relationship, address and telephone number of the ~~persons~~ person(s) with whom the child resides following termination of care;
 - 6) summaries of evaluation conferences; and
 - 7) the child's health, including current health evaluations, medical and dental reports, psychological and psychiatric examination reports, illnesses, treatment and persons providing treatment, charting of medication including type, dosage, time and signature of persons dispensing the medication, any history of alcoholism or drug addiction.
- e) In addition to the permanent record, the institution shall maintain active records containing the admission study and ongoing data including important documents pertaining to birth, family, legal status, school, religious affiliation, health findings and treatment and consents and other documents as appropriate.
- f) Children's records shall also include the child's adjustment, functioning and progress in:
- 1) group interaction; staff and peer relationships;
 - 2) school or work;
 - 3) special skills, interests and activities;
 - 4) the community;
 - 5) relationship with his family and significant changes in the family;
 - 6) relationship and contacts with guardian, and other agencies;
 - 7) treatment services provided the child;
 - 8) reducing behavioral problems to enable him to live in a less restrictive setting; and

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- 9) interaction with his family during visitation.
- g) Records shall be maintained for all employees and, in addition, for each volunteer who has responsibility for the direct care or supervision of children. These records shall contain all pertinent information relative to character, suitability, qualifications for the position, health, ~~3~~ three pre-employment references, history of employment for the last ~~5~~ five years, and at a minimum, annual evaluations of performance. Personnel records shall include the date of employment and the date and ~~reasons~~ reason(s) for separation. These records shall be available for Department review.
- h) The institution 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 (including owner, operator, or director) shall be filed with the Department; a copy of this report shall be kept at the facility.
- 2) For all new hires, a complete authorization for background checks, as required by 89 Ill. Adm. Code 385 (Background Checks) must be submitted to the Department Central Office of Licensing within 2 business days after beginning employment. All staff changes shall be reported to the Department within two business after beginning employment. Such reports shall be accompanied by complete, signed authorizations for background checks, as required by 89 Ill. Adm. Code 385, Background Checks.
- 3) Changes of the administrator shall be forwarded to the licensing representative of the Department, within 2 business days after the change. If the 2 day notification is submitted electronically or by phone, written confirmation, with documentation of credentials as required by Section 404.11, shall be submitted to the Department licensing representative within 10 business days. All other staff changes should be reported monthly to the licensing representative.
- 43) Copies of documentation of medical information; and verification of educational achievement; ~~and character.~~
- i) The institution shall maintain a separate file of the results of the background check required by Section 404.24 and 89 Ill. Adm. 385; (Background Checks).

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- j) The institution shall maintain in its official records the major decisions and policies of the governing body or board.
- k) Financial records of operations including a copy of the annual independent certified audit shall be maintained as part of the permanent records of the institution.
- l) The institution shall provide safe, locked places for maintenance, safe storage and preservation of confidential and business records.

(Source: Amended at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.49 Transportation ~~Severability of This Part~~

A child care institution or maternity center providing transportation services on a regular basis shall comply with the driver licensing, Rules of the Road, financial responsibility, vehicle equipment and vehicle inspection provisions of the Illinois Vehicle Code [625 ILCS 5].

- a) The driver of a vehicle transporting children on behalf of a child care institution or maternity center, whether paid or unpaid, shall comply with the following requirements:
 - 1) be 21 years of age or older;
 - 2) currently holds a valid driver's license that has not been revoked or suspended for one or more traffic violations during the 3 years immediately prior to the date of application;
 - 3) demonstrates physical fitness to operate vehicles (the results of a medical examination conducted by a licensed physician shall be kept on file at the center or institution);
 - 4) has not been convicted of more than 2 offenses against traffic regulations governing the movement of vehicles within a 12 month period;
 - 5) has not been convicted of reckless driving or driving under the influence or manslaughter or reckless homicide resulting from the operation of a motor vehicle within the past 3 years;

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- 6) has signed and submitted a written statement certifying that he/she has not, through the unlawful operation of a motor vehicle, caused an accident that resulted in the death of any person within the 5 years immediately prior to the date of application.
- b) Any child care institution or maternity center may provide for transportation of a child or children for special outings, functions or purposes that are not scheduled on a regular basis without verification that drivers for such purposes meet the requirements of this Section.
- c) A child care institution or maternity center driver application shall be submitted to the Department and a copy of the current medical form shall be maintained in the institution's or center's files for any individual who transports children regularly on behalf of the center or institution.
- d) Any individual who holds a valid unrestricted Illinois school bus driver permit issued by the Secretary of State pursuant to the Illinois Vehicle Code and who is currently employed by a school district, parochial school, or a contractor with a school district or parochial school to drive a school bus transporting children to and from school shall be deemed in compliance with the requirements of subsections (a) and (c).
- e) The institution or maternity center shall have and enforce written safety procedures for transporting children.
- f) The number of children transported in a vehicle shall not exceed the manufacturer's rated passenger capacity.
- g) Age-appropriate safety restraints that are federally approved and labeled as such shall be used at all times when transporting children in vehicles having a gross weight of less than 10,000 pounds, except that individual safety restraints shall not be required when children ride as passengers in taxicabs or common carriers or public utilities operating under the jurisdiction of the Illinois Commerce Commission. No more than one child may be in each seat belt.
- h) Any vehicle used for the transportation of children on behalf of the institution shall be equipped with a first aid kit when used for transporting children.

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- i) A written emergency plan to be followed in case of accidents, serious illness or severe weather alerts and other pertinent information shall be maintained. The emergency plan shall remain in the possession of the driver while en route.

(Source: Section 404.49 renumbered to Section 404.50; new Section 404.49 adopted at 29 Ill. Reg. 9976, effective July 1, 2005)

Section 404.50~~Section 404.49~~ Severability of This Part

If any court of competent jurisdiction finds that any ~~Section~~section, clause, phrase, or provision of this ~~Part~~part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this ~~Part~~part.

(Source: Section 404.50 renumbered from Section 404.49 and amended at 29 Ill. Reg. 9976, effective July 1, 2005)

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- 1) Heading of the Part: State Administration of the Federal Community Development Block Grant Program for Small Cities
- 2) Code Citation: 47 Ill. Adm. Code 110
- 3)

| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
|--------------------------|-------------------------|
| 110.10 | Amendment |
| 110.20 | Amendment |
| 110.30 | Amendment |
| 110.35 | Amendment |
| 110.50 | Amendment |
| 110.60 | Amendment |
| 110.70 | Amendment |
| 110.80 | Amendment |
| 110.93 | Amendment |
| 110.95 | New Section |
| 110.102 | New Section |
| 110.104 | Amendment |
| 110.110 | Amendment |
| 110.120 | Amendment |
| 110.130 | Amendment |
- 4) Statutory Authority: Implementing Sections 605-940 and 605-945, and authorized by Section 605-95, of the Civil Administrative Code of Illinois [20 ILCS 605/605-940, 605-945 and 605-95]. Authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5302 et seq.)
- 5) Effective Date of Amendments: June 28, 2005
- 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 principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 29 Ill. Reg. 3411; February 25, 2005
- 10) Has JCAR issued a Statement of Objection to these amendments? No

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- 11) Differences between proposal and final version: Grammatical and stylistic 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? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Two new sections were added to the Community Development Assistance Program, which develops a new non-competitive grant program to assist persons with disabilities in non-metropolitan areas of the State. Specifically, eligible units of local governments may apply for funds on behalf of their eligible residents with mobility impairments that without affordable accessible housing improvements would be at risk of becoming homeless, forced into institutionalization or becoming completely unable to perform normal life activities in their current housing unit due to structural impediments. In addition to the two new sections, the Department is taking this opportunity to make non-substantive “clean-up” changes to other sections within the Community Development Assistance Program Subpart.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
620 East Adams Street
Springfield, IL 62701

217/557-1820

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

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TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITYPART 110
STATE ADMINISTRATION OF THE FEDERAL COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM FOR SMALL CITIES

SUBPART A: COMMUNITY DEVELOPMENT ASSISTANCE PROGRAM

Section

| | |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 110.10 | Legislative Base |
| 110.20 | Purpose and Scope |
| 110.30 | Definitions |
| 110.35 | Incorporation by Reference |
| 110.40 | Federal/State Program Objectives |
| 110.50 | Eligible Applicants |
| 110.60 | Eligible/Ineligible Projects and Activities for CDAP Components |
| 110.70 | Grant Application Process |
| 110.80 | Funding |
| 110.90 | Emergency Set-Aside for Set-Aside for Emergency Public Facilities Component |
| 110.91 | General Economic Development Component |
| 110.92 | Competitive Public Facilities Construction and Design Engineering Component |
| 110.93 | Competitive Housing Rehabilitation Component |
| 110.94 | Competitive Planning Assistance Component |
| 110.95 | Non-Competitive Mobility and Accessibility Rehabilitation Services Component Competitive Removal of Architectural Barriers Component (Repealed) |
| 110.100 | Application Evaluation for Competitive Public Facilities and Competitive Housing Rehabilitation Components (Repealed) |
| 110.101 | Application Evaluation for Competitive Planning Assistance Component |
| 110.102 | Pre-Application Determination and Application Evaluation for Non-Competitive Mobility and Accessibility Rehabilitation Services Application Evaluation for Competitive Removal of Architectural Barriers Component (Repealed) |
| 110.103 | Application Evaluation for Competitive Public Facilities Construction and Design Engineering Component |
| 110.104 | Application Evaluation for Competitive Housing Rehabilitation Component |
| 110.105 | Small Business Financing Component (Repealed) |
| 110.106 | Demonstration Program: Set-Aside for Emergency Lead-Based Paint Abatement |
| 110.110 | Administrative Requirements |
| 110.120 | Nondiscrimination |

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110.130 Complaint Process

SUBPART B: REVOLVING FUNDS

Section

| | |
|---------|----------------------------------------------|
| 110.210 | Purpose |
| 110.220 | Definitions |
| 110.230 | Recapture Strategy Requirements |
| 110.240 | Revolving Fund Administration |
| 110.250 | Use of Revolving Funds |
| 110.260 | Requirements for Revolving Fund Projects |
| 110.270 | Administrative Costs |
| 110.280 | Revolving Fund Fundability Analysis |
| 110.290 | Revolving Fund Financial Assistance Closings |
| 110.300 | Security |
| 110.310 | Disbursement of Revolving Funds |
| 110.320 | Revolving Fund Monitoring |
| 110.330 | Recordkeeping and Reporting |
| 110.340 | Department Monitoring |
| 110.350 | Evaluation of Performance |
| 110.360 | Program Income Subject to the Act |

AUTHORITY: Implementing Sections 605-940 and 605-945, and authorized by Section 605-95, of the Civil Administrative Code of Illinois [20 ILCS 605/605-940, 605-945 and 605-95]. Authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301 et seq.).

SOURCE: Adopted and codified at 7 Ill. Reg. 2972, effective March 9, 1983; amended at 7 Ill. Reg. 7898, effective June 21, 1983; amended at 8 Ill. Reg. 16250, effective August 29, 1984; amended at 9 Ill. Reg. 7117, effective May 9, 1985; amended at 9 Ill. Reg. 10702, effective June 28, 1985; amended at 10 Ill. Reg. 10093, effective May 28, 1986; amended at 12 Ill. Reg. 2254, effective January 19, 1988; amended at 15 Ill. Reg. 4410, effective March 11, 1991; amended at 16 Ill. Reg. 20106, effective December 14, 1992; amended at 20 Ill. Reg. 7799, effective May 29, 1996; amended at 22 Ill. Reg. 1910, effective January 1, 1998; amended at 23 Ill. Reg. 8362, effective July 12, 1999; amended at 26 Ill. Reg. 11805, effective July 18, 2002; amended at 28 Ill. Reg. 13468, effective September 23, 2004; emergency amendment at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10017, effective June 28, 2005.

SUBPART A: COMMUNITY DEVELOPMENT ASSISTANCE PROGRAM

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Section 110.10 Legislative Base

- a) Federal
 - 1) On July 31, 1981, Congress passed the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35). This Act established seven block grant programs, including the State Community Development Block Grant (CDBG) Program. These block grants replace a large number of programs previously administered by the Federal Government. Although the Housing and Community Development Act of 1974 provided since its inception for discretionary block grants to smaller communities, the Omnibus Budget Reconciliation Act of 1981 made a fundamental change to transfer to the States the power and decision making in awarding block grants to small communities.
 - 2) The State Community Development Block Grant Program funds are allocated to the State pursuant to Section 106(d) of Title I of the federal Housing and Community Development Act of 1974, as amended. The Act authorizes state administration of the program to units of general local governments in nonentitlement areas. Throughout this Part references are made to the provisions of 24 CFR 570. These HUD regulations were published November 9, 1992.
 - 3) While the States must follow the statutory requirements concerning the use of block grant funds, the Secretary of HUD will give maximum feasible deference to a State's interpretation of such requirements consistent with the Secretary's obligation to enforce compliance with the intent of Congress.
 - 4) Pursuant to 24 CFR 91, the State must submit annually to HUD a Consolidated Plan that serves as the planning document of the State and an application under any of the Community Planning and Development formula grants, including CDBG. The Consolidated Plan will include the application deadlines for the competitive funding components for the upcoming program year. A final statement and certifications are required to be submitted before March 31 during each year in which a State elects to administer the Community Development Block Grant funds for its nonentitlement areas.

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b) State

- 1) On August 10, 1981, the Governor designated the Illinois Department of Commerce and Community Affairs, now known as the Illinois Department of Commerce and Economic Opportunity, as the State administrative agency for the Small Cities Community Development Block Grant Program. On March 23, 1982, the Governor officially notified the U.S. Department of Housing and Urban Development of the State's election to administer the Small Cities Program for nonentitlement communities within the State.
- 2) As a part of its application, with respect to the Community Development Assistance Program, the State must submit an annual State of Illinois Consolidated Plan Action Plan certified to HUD outlining the one year use of funds and certifying that it:
 - A) Engages or will engage in planning for community development activities;
 - B) Provides or will provide technical assistance to units of general local government in connection with community development programs; and
 - C) Through the public hearing requirement, hasHas consulted with local elected officials and interested parties/citizens from among units of general local government located in nonentitlement areas of the State determining the method of distribution of CDBG funds.

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.20 Purpose and Scope

The purpose of this Part is to develop State administrative rules~~regulations and guidelines~~ for the administration of the Community Development Assistance Program (CDAP) within the State of Illinois. The promulgation of clear-cut program State administrative rules~~guidelines~~ for the Community Development Assistance Program will ensure the maximum and efficient use of funds for community and economic development programs in the State's nonentitlement areas.

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

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Section 110.30 Definitions

"Act" shall mean Section 106(d), as amended, of Section 304 of Title III of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) (42 USC 5301).

"Application" shall mean a request for program funds including the required forms and attachments.

"Application on Behalf Of" shall mean any application submitted by one eligible applicant requesting funds for one or more other eligible applicants.

"Community" shall mean any eligible applicant.

"Community Development Assistance Program" or "CDAP" shall mean the State Community Development Block Grant program administered by the Department, authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301).

"Department" shall mean Illinois Department of Commerce and Economic Opportunity.

"Director" shall mean the Director of the Illinois Department of Commerce and Economic Opportunity.

"Economic Development" shall mean job creation/retention and the alleviation of economic distress through the stimulation of private investment and community revitalization.

"Eligible Applicant" shall mean any incorporated municipality, township, or county within the State of Illinois, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development.

"Eligible Lines of Credit" shall mean committed revolving line of credit facilities that are subject to loan agreements with financial institutions and are structured for the purpose of funding the project. Such agreements shall be satisfactory to the Department and shall be for terms of at least 2 years from the time funds are awarded and in amounts equal to or greater than the resource leveraging amount.

"Entitlement City" shall mean a city designated by the Department of Housing

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and Urban Development to receive an amount of funds which the city is entitled to receive under the Entitlement Grant Program, as determined by formula set forth in section 106 of the Housing and Community Development Act of 1974

"Entitlement Government" shall mean a unit of government that is any incorporated community with a population over 50,000 or any county with a population over 500,000.

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.35 Incorporation by Reference

Any incorporation by reference in this Part of the ~~state administrative~~ rules ~~or federal~~ and regulations of any agency of the United ~~States~~State or ~~theof~~ standards of a nationally recognized organization or association includes no new amendments or additions made after the date specified.

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.50 Eligible Applicants

- a) Only units of local government may apply for funding. Municipalities must be less than 50,000 in population. Counties and townships that are not participating in the Urban County Entitlement Program of the U.S. Department of Housing and Urban Development are also eligible to apply for block grant funds.
- b) Because of eligibility requirements and administrative capacity, certain unincorporated areas and special districts may not qualify for participation by themselves. In such instances, general purpose units of local government will be allowed to submit applications on behalf of otherwise ineligible special districts and unincorporated areas provided the unit of general local government determines that the activity is meeting its needs in accordance with Section 106 (d)(2)(D) of the Housing and Community Development Act of 1974, as amended.
- c) In situations where 2 or more eligible local governments face a common problem, a joint application may be submitted under the following conditions:
 - 1) ~~The~~ solution of the problem requires mutual action and is not intended for administrative convenience; and

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- 2) ~~The~~ eligible local governments involved have contacted the Department ~~of Commerce and Community Affairs~~ for prior approval of such an arrangement before actual application submission.
- d) An Application ~~"on Behalf Of"~~ or joint application may not be filed for an entitlement city or a city located in an entitlement county.
- e) In the event that either an Application ~~"on Behalf Of"~~ or joint application will be filed, the local governments involved must submit an executed cooperation agreement with its application for funds that define grantee responsibilities, should the application be successful.

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.60 Eligible/Ineligible Projects and Activities for CDAP Components

- a) Eligible Projects and Activities—
Eligible activities are detailed in 24 CFR 570.482 (2004). Listed below are program components that describe eligible projects and activities that may be funded through CDAP: ~~Activities assisted by this program may include the following:~~
- 1) General Economic Development Component. ~~Provision—~~provision of financial assistance to private for-profit or not-for-profit businesses for such activities as land acquisition; public facilities and improvements in support of economic development (such as, water, sewer and utility lines); acquisition, construction, rehabilitation of commercial and industrial buildings/facilities; machinery and equipment; furnishings and fixtures; and working capital expenses.
 - 2) Competitive Public Facilities Construction and Design Engineering Component. Provision of financial assistance for acquisition, construction, ~~Public Facilities and Improvements—acquisition, construction,~~ reconstruction, rehabilitation or installation of public facilities, and improvements e.g., water and sewer facilities, including storm sewers; flood retention and drainage facilities.
 - 3) Competitive Housing Rehabilitation Program Component. Provision of financial assistance in ~~Housing Rehabilitation and Preservation—provision of assistance in~~ support of low-low to moderate-income housing, including

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rehabilitation, clearance, demolition, and/or removal of privately-owned buildings and provision of site improvements such as connection of residential structures to water or sewer lines; certain types of housing modernization; temporary relocation assistance; code enforcement; and lead-based paint abatement. ~~and~~

4) Non-Competitive Mobility and Accessibility Rehabilitation Services Component. Provision of financial assistance includes structural improvements to privately-owned buildings to remove physical barriers that restrict the mobility and accessibility of elderly and disabled persons in order to comply with the Illinois Accessibility Code (71 Ill. Adm. Code 400), e.g., modifications to entrances and exits, parking improvements, modification of bathroom and kitchen facilities.

5)4) Competitive Planning Assistance Component. Provision of financial assistance includes planning activities that focus on the needs of Planning Assistance—planning activities which focus on the needs of low- and moderate-income persons in the community, including feasibility studies, data gathering, analyses, preparation of plans, and identification of implementing actions.

6) Emergency Set-Aside for Public Facilities Component. Provision of financial assistance includes acquisition, construction, reconstruction, rehabilitation or installation of public facilities, and improvements (e.g., water and sewer facilities, including storm sewers, flood retention and drainage facilities).

b) Eligible Program Planning and Administration Costs
~~5)With respect to subsection (a), program planning and administration costs are allowable costs for eligible projects and activities under CDAP. Eligible costs for general program planning and administration include local government operational costs of The remaining major eligible cost category under the Community Development Assistance Program is general program planning and administration. This area covers the local government operational costs of~~ implementing a local program. It includes costs involved in preparing the environmental review; preliminary engineering, planning, and design fees for the project; the cost of the local program audit; and other contractual costs for professional services that are associated with the administration of the program. It excludes all pre-program costs, such as payment or reimbursement of application preparation fees, costs associated with conducting a local survey, etc.

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There is a 10% ceiling placed on general program planning and administration costs for any local program.

~~c)b~~ Ineligible Projects and Activities

- 1) Generally, any type of activity not described or referred to in Section 110.60(a) is considered ineligible.
- 2) The following is a selective list of examples of projects and activities that are generally ineligible: buildings used predominantly for the general conduct of government (e.g., city halls, courthouses, jails, police stations, etc.). ~~However, if the Illinois Historic Preservation Agency requires historic preservation renovations to a project, those renovations will be deemed eligible expenses. This does not exclude historic preservation.~~ General government expenses; political activities; purchase of construction equipment and purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. However, CDAP funds may be used to purchase or to pay depreciation or use allowances for such items when necessary if the administration of activities was assisted with CDAP funds. The costs associated with operating and maintaining public facilities and services are generally ineligible. New housing construction is ineligible, except as provided under the last resort housing provision set forth in 49 CFR 24 (2004), or, when carried out by a subgrantee pursuant to 24 CFR 570.204(a)(2) (2004); income payments for housing or any other purpose (e.g., income maintenance, housing allowances, down payments, mortgage subsidies, etc.). All activities as listed in 24 CFR 570.482 (2004) and section 105(a) of the Act are eligible.

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.70 Grant Application Process

- a) Upon request, the Department ~~of Commerce and Economic Opportunity~~ will supply local governments with an application package. ~~Eligible applicants~~ Applicants shall complete ~~and submit~~ the ~~application package~~ in accordance with the instructions and ~~the application~~ schedule, ~~which is~~ annually established by the Department. Costs incurred in preparing the applications are not reimbursable.

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- b) Pursuant to 24 CFR 570.486(5), eligible applicants must ~~conduct~~provide for two public hearings, each at a different stage of the project to obtain citizen views.
- 1) A minimum of one public meeting must be held prior to the submission of any application to the Department. This meeting, and its specific time, location, and topics must be published at least seven days in advance in the non-legal section of a newspaper that is in general circulation within the community. Subsequent to the meetings, a resolution of support from the local governing body must be passed that authorizes the local government to apply for funds. If an eligible applicant plans to utilize grant funds as a financial assistance mechanism, ~~discussions~~discussion should be held at the public meeting to determine the planned uses of the recaptured funds.
 - 2) Should an eligible applicant be awarded a grant, the applicant must provide documentation/evidence (i.e., newspaper clipping of notice hearing and a summary of comments presented at hearing) that one public hearing was conducted to review program performance under that grant.
- c) Eligible applicants ~~Applicants~~ must submit a plan for minimizing displacement pursuant to section 104(d) of the Housing and Community Development Act of 1974, as amended, only if the project will result in the displacement or relocation of residents.

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.80 Funding

- a) Distribution of Funds: ~~Grant—Distribution of grant~~ awards will be made according to the application evaluation ~~processes~~process described in Sections 110.91, 110.92, 110.93, 110.94, 110.95, 110.101, 110.102, 110.103, and 110.106 of this Part.
- b) ~~Other~~ Funding Considerations
- 1) Grant Ceilings: Grant ceilings for the various components listed in Section 110.60 of this Part establish the maximum grant award~~general~~ limits that an eligible applicant may ~~request~~be requested. The Department shall ~~utilize~~employ the factors listed in subsection (b)(1)(D) of this Section in authorizing a higher grant ceiling for a particular project.

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~~Grants~~~~Individual grants~~ will only be funded ~~only~~ in amounts commensurate with the requirements of the proposed projects. The Department will set the following grant ceilings for eligible applicants:

| <u>A)</u> | <u>Components</u> | <u>Grant Ceiling</u> |
|-----------|-----------------------------------------------------------------------------------------|----------------------|
| | i) <u>General Economic Development Component</u> | <u>\$750,000</u> |
| | ii) <u>Competitive Public Facilities Construction and Design Component</u> | |
| | <u>Construction</u> | <u>\$400,000</u> |
| | <u>Design Engineering</u> | <u>\$200,000</u> |
| | iii) <u>Competitive Housing Rehabilitation Program Component</u> | <u>\$400,000</u> |
| | iv) <u>Non-Competitive Mobility and Accessibility Rehabilitation Services Component</u> | <u>\$100,000</u> |
| | v) <u>Competitive Planning Assistance Component</u> | <u>\$25,000</u> |
| | vi) <u>Emergency Set-Aside for Public Facilities Component</u> | <u>\$100,000</u> |
| | vii) <u>Set-Aside for Lead-based Paint</u> | <u>\$50,000</u> |

| A) | Components | Grant Ceiling |
|----|------------------------------------------------------------------|---------------|
| | i) General Economic Development | \$750,000 |
| | ii) Competitive Public Facilities | \$400,000 |
| | iii) Construction and Design Engineering | \$100,000 |
| | iv) Competitive Housing Rehabilitation | \$400,000 |
| | v) Additional Housing Rehabilitation Physically Disabled Persons | \$100,000 |

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| | | |
|-------|------------------------------------------------------|----------------------|
| vi) | Set Aside for Emergency Public Facilities | \$100,000 |
| vii) | Planning Assistance | \$ 25,000 |
| viii) | Set Aside for Lead-based Paint | \$ 50,000 |

- B) ~~Eligible applicants~~Local governments may only submit one application and may only receive ~~only one grant award~~ under the following program components: ~~of~~ Competitive Public Facilities Construction; ~~and~~ Design Engineering; ~~and~~ Competitive Housing Rehabilitation; ~~and~~ Competitive Planning Assistance in any one program year. Under the Non-Competitive Mobility and Accessibility Rehabilitation Services Component and subject to available funding, an eligible applicant may submit more than one application and may receive more than one grant, which will be awarded on a first come-first served basis. They are limited to submitting one application under the Competitive Public Facilities Construction and Design Engineering and the Competitive Housing Rehabilitation components in any one program year.
- C) On occasion, the Department will review the technical feasibility of a project. If the review requires non-Departmental expertise (e.g., water and sewer permits), the Department will coordinate with other agencies (e.g., Environmental Protection Agency (EPA), Department of Public Health (DPH), USDA Rural Development) to review the technical feasibility of the project.
- D) In determining the appropriate ~~individual~~ grant award amount, ~~amounts~~ the Department shall consider the following:
- i) Project Need:— Project need shall be determined using standards found in Sections 110.90(b)(3); 110.91(b)(3)(A), (C), (D), and (E); 110.92(b)(3); 110.93(b)(3); 110.94(b)(3); 110.95; 110.101(b); 110.102; and 110.103(b), as applicable.
 - ii) Ability to Carry Out the Project:— Determination of the ability to successfully complete the proposed project shall be based upon elements such as previous program performance, experience, and scope of the proposed

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program.

- iii) Proposed Activities:— A review of the proposed activities shall be based on a determination of whether the program objectives will be met through the proposed activities as set out in Sections 110.90, 110.91, 110.92, 110.93, ~~and 110.94, and 110.95.~~
- E) The Department may withdraw, suspend or terminate grant funding based on the following:
 - i) If the Department approves an application, but prior to the execution of a Grant Agreement, itThe Department learns or has a reasonable belief that the project will not progress or is unlikely to be completed as originally anticipated, due to unforeseen facts and circumstances not previously known during or subsequent to the application process, it may withdraw itsa commitment of funds. If the Department withdraws its commitment of funds, it shall provide written notification to the applicant advising it of the same and setting forth the reasons for the withdrawal. if it is determined that a project will not progress.
 - ii) If the Department approves an application and a Grant Agreement has been executed, the Department may only suspend or terminate the Grant Agreement in accordance with the terms andThe conditions set forth in the Grant Agreement or the conditions describedunder which this shall occur are listed in 47 Ill. Adm. Code 1.110.
- 2) Standards for Program Category Allocation: The Department shall determine the amount of funds annually allocated to carry out activities in accordance with each of the community development assistance program ~~components~~categories. ~~Needs~~Need expressed by interested citizens and local elected officials pursuant to Section 110.10(b)(2)(C) of this Part, the amount of annual allocation, and a review of past program component usage shall be factors in determining the amount of funds annually allocated to carry out activities. The allocation of funds between program components shall be determined from the following allocation ranges:

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- A) ~~Emergency Set-Aside for Set-Aside for Emergency~~ Public Facilities:— 1% - 20%
- B) Competitive Housing Rehabilitation ~~Program Component~~:— 15% - 70%
- C) Competitive Public Facilities ~~Construction and Design Engineering Component~~:— 40% - 60%
- D) General Economic Development ~~Component~~:— 10% - 40%
- E) ~~Competitive~~ Planning Assistance:— up to 1%
- F) Set-Aside for Lead-Based Paint Abatement:— up to 1%
- G) ~~Non-Competitive Mobility and Accessibility Rehabilitation Services Component~~: 1% - 10%
- 3) Environmental Clearances: Upon actual grant award, ~~if required,~~ a technical review of non-exempt activities must be completed, ~~if required,~~ under 24 CFR 58 (1996). HUD has published Environmental Review Procedures for the Community Development Block Grant (24 CFR 58).
- 4) On-Site Visits: The Department's program staff may, contingent upon program resources or the need for on-site inspection, ~~to~~ verify eligibility, conduct field visits of potential grantees under the Competitive Public Facilities ~~Construction and Design Engineering, and~~ Competitive Housing Rehabilitation, ~~and Non-Competitive Mobility and Accessibility Rehabilitation Services~~ components prior to final grant decisions.

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.93 Competitive Housing Rehabilitation Component

The competitive housing rehabilitation component targets projects proposing to rehabilitate existing housing stock. The purpose is to provide decent, safe, and sanitary housing in conformity with local housing codes for ~~low-low~~ to moderate-income persons, ~~and structural improvements to remove physical barriers that restrict mobility and accessibility of elderly and disabled persons.~~ Applicants may apply for up to \$400,000 in Competitive Housing Rehabilitation funds ~~and up to \$100,000 additional funds to provide structural improvements to~~

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~~remove physical barriers that restrict mobility of elderly and disabled persons. Applicants must apply for Competitive Housing Rehabilitation funds in order to be eligible to apply for the additional funds for the removal of barriers.~~

- a) Project Eligibility Criteria:— For a project to be eligible for funding under this component, applicants must document the following:
- 1) Program funds used in the rehabilitation of a residence will benefit 100% low- to moderate-income persons.
 - 2) At minimum, 20% of project costs will be paid from other non-Department funds. Examples of other funding sources may include USDA Rural Development, Illinois Housing Development Authority (IHDA), local (in-kind), or property owners, except for accessibility projects that will not be required to provide leverage.
 - 3) That a project plan is presented which documents selection of the area targeted for assistance.
 - 4) The project is ready to proceed and expend funds and the project addresses the identified problem.
- b) Application Review and Approval
- 1) Applications will be accepted once a year on a due date established at the beginning of the program year pursuant to Section 110.10(a)(4) of this Part.
 - 2) Applications will be prepared and submitted to the Department as specified in Section 110.70 of this Part.
 - 3) Applications will be reviewed in accordance with Section 110.104 of this Part.

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

**Section 110.95 Non-Competitive and Accessibility Rehabilitation Services
Component~~Competitive Removal of Architectural Barriers Component (Repealed)~~**

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The Non-Competitive Mobility and Accessibility Rehabilitation Services (MARS) component targets projects to provide structural improvements to remove physical barriers that restrict mobility and accessibility of elderly and disabled persons. Eligible applicants may apply for up to \$100,000 in funds to provide structural improvements to remove physical barriers that restrict mobility of elderly and disabled persons.

- a) Project Eligibility Criteria: For a project to be eligible for funding under this component, applicants must document the following:
 - 1) Program funds will be used in the rehabilitation of a residence that will benefit 100% low- to moderate-income persons; and
 - 2) The project is ready to proceed and expend funds and the project addresses the identified problem.
- b) Eligible Activities that include: Structural improvements to a privately owned building that are required to comply with the Illinois Accessibility Code (71 Ill. Adm. Code 400), which include, but are not limited to, modifications to entrances/exits, parking improvements, kitchen and bathroom modifications, etc.
- c) Pre-Application and Eligibility
 - 1) Pre-applications will be accepted on a first come-first served basis based upon the Department's receipt of the State's federal formula allocation for the Small Cities Community Development Block Grant funds as described in Section 110.10(a)(4) of this Part.
 - 2) Pre-applications will undergo an initial review to determine eligibility in four areas:
 - A) Compliance with the public hearing requirements;
 - B) Certification of submission to the Illinois Historic Preservation Agency for clearance of identified housing units;
 - C) Certification of eligibility for identified households; and
 - D) Cost estimates for rehabilitation for each housing unit identified for assistance.

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- d) Application Review and Approval
- 1) After the Department determines that an applicant is eligible, it will forward an application to the eligible applicant, which shall be completed and submitted to the Department as required in Section 100.70 of this Part.
 - 2) Applications will be funded after the Department verifies that the documents submitted are complete and accurate. The following is the information and documentation that the applicant must submit.
 - A) Local council resolution of support;
 - B) Submittal letter signed by the chief elected official stating that 100% of low- to moderate-income will benefit from the project;
 - C) Illinois Historic Preservation Agency clearance letters on the identified housing units;
 - D) A copy of all bids received for each housing unit with lowest responsive bid identified, including a statement of the lowest bidder's qualifications;
 - E) Verification of eligibility of the identified household;
 - F) Application project information form;
 - G) Housing fact sheet;
 - H) Local government certifications;
 - I) Grantee/recipient disclosure certification;
 - J) Minority benefit/affirmation housing statement; and
 - K) Housing project design.

(Source: Old Section repealed at 26 Ill. Reg. 11805, effective July 18, 2002; new Section added at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.102 Pre-Application Determination and Application Evaluation for Non-

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Competitive Mobility and Accessibility Rehabilitation Services Application Evaluation for Competitive Removal of Architectural Barriers Component (Repealed)

- a) Pre-application: Non-entitlement units of local government, after determining and identifying households needing MARS assistance, shall contact the Department's Housing Manager either by written correspondence or telephone to determine whether MARS funds are available. If sufficient funds are available for the potential projects, the Department shall forward a pre-application to the unit of local government. When the Department forwards the pre-application to the unit of local government, it will date-stamp the pre-application and advise the unit of local government that it has 30 calendar days to complete the pre-application and return it to the Department, together with the required forms and documentation. In the event the unit of local government fails to return the pre-application and the required documents within 30 days after of the date-stamp, the pre-application will be considered null and void and the unit of local government will have to reinitiate the pre-application process as outlined in this Section.
- b) Submission of Pre-application: When an eligible applicant submits its pre-application to the Department, the Department will date-stamp the pre-application and its attachments. Within 5 business days after receipt, the Department will review the pre-application for compliance. Upon verifying compliance, the Department will send an application to the unit of local government and the requested funds will be temporarily earmarked for the project. Thereafter, the unit of local government will have 30 calendar days to complete and submit its application to the Department. In the event that the unit of local government fails to submit a sufficient pre-application, the Department will return the pre-application and allow the unit of local government 15 calendar days from the date of the Department's deficiency determination letter to cure any deficiencies and resubmit the pre-application. In the event the unit of local government fails to timely cure any and all deficiencies in its pre-application, the Department will deem the pre-application null and void and return it to the unit of local government. If the unit of local government chooses to reinitiate the pre-application process, it must follow the pre-application process as outlined in subsection (a).
- c) Submission of Application: Within 5 business days after receipt of the application, the Department shall review the application for completeness and accuracy. If the application is deemed complete, the Department's Housing Manager shall approve the application and initiate the Department's grant award process. The grant award process includes a Grant Agreement prepared by the

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Department and sent to the unit of local government for review and execution. In the event the application is deemed insufficient, the unit of local government will have 15 calendar days from the date of the Department's deficiency determination letter to cure any and all deficiencies and resubmit the application before it is deemed null and void. If the application is deemed null and void, the MARS funds earmarked for the project will be released and the unit of local government will have to reinitiate the pre-application process as outlined in subsection (a) to be reconsidered for funding for the project.

(Source: Old Section repealed at 26 Ill. Reg. 11805, effective July 18, 2002; new Section added at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.104 Application Evaluation for Competitive Housing Rehabilitation Component

- a) Explanation of Application Ranking System
 - 1) Applicants will compete in a formalized ranking system. Applications will undergo an initial review to determine eligibility in 2 areas: Benefit to Low- and Moderate-Income Persons and Leverage Funds. Upon meeting the minimum eligibility thresholds, applications will compete in a formalized ranking system.
 - 2) Applications will be ranked in ~~45~~ areas: ~~Community Need~~, Project Need, Project Impact, Evidence of Coordination of Resources, and Project Readiness. The Department will then select projects for funding out of the top-ranking projects as determined under subsection (b)(2) until all available funds are expended.
- b) Criteria for Selection of Projects
 - 1) The analysis will evaluate project need, according to its impact on program benefit and benefit to low- to moderate-income persons utilizing the ranking system contained in subsection (d).
 - 2) Comparative Assessment of Applications
 - A) The Department will screen and identify top ranking CDAP applications. Projects will be ranked in categories of maximum, moderate, minimum or no rating as described in subsection (d).

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Maximum ratings do not guarantee that a project will receive funding. The Department will then conduct intensive evaluations, leading to the CDAP grant award decisions. Department staff may conduct field visits and will analyze project characteristics, including:

- i) ~~Aa~~ comparative assessment of projects – e.g., project impact, local contribution, community need, etc.;
- ii) ~~Aa~~ verification of submitted application information;
- iii) ~~Aa~~ thorough analysis of the project's readiness to proceed; and
- iv) ~~Aa~~ determination of the applicant's previous efforts to address its problems.

B) Actual funding levels will relate closely to the competitiveness of the proposed projects. Applications will be comparatively ranked according to the criteria described in this subsection (b) to determine the final funding levels. The Department reserves the right to negotiate the final funding figures.

c) Eligibility Thresholds

- 1) Benefit to Low- and Moderate-Income Persons: Applications must document that the project will benefit 100% low- to moderate-income persons. Applications which do not document benefit to low- to moderate-income persons will not be considered further.
- 2) Leverage Funds: Applications must provide evidence that at least 20% of non-administrative housing rehabilitation costs will be provided from non-CDAP sources, except accessibility projects, which will not be required to provide leverage.

d) Ranking Criteria

- ~~1) Community Need: This criterion is an objective measure of relative poverty and economic distress designed to give some priority to applicants with the highest level of need. The following 2 indicators will be equally~~

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~~weighted and given a numerical score:~~

- ~~A) Estimates of average unemployment in Illinois, by county, based upon Illinois Department of Employment Security data.~~
- ~~B) Percentage of people in poverty according to United States Census Bureau data.~~

~~1)2) Project Need~~

- A) An application shall receive a maximum rating if it has fully:
 - i) ~~Demonstrated~~demonstrated that the extent of housing deficiencies is widespread and serious and the percentage of substandard units occupied by low- to moderate-income persons is high relative to the total number of households in the area;
 - ii) ~~Identified~~identified specific local conditions that have contributed or are contributing to the deterioration or lack of affordable housing;
 - iii) ~~Described~~described previous efforts to address housing problems that have not resolved the housing deficiencies, including a description of why the efforts failed to solve the problem.
 - iv) ~~identified specific properties that are occupied or will be occupied by persons with physical disabilities and that are in need of rehabilitation to meet the Illinois Accessibility Code (71 Ill. Adm. Code 400).~~
- B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~12~~)(A).
- C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~12~~)(A).

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D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(~~12~~)(A).

~~2)3)~~ Project Impact

A) An application shall receive a maximum rating if it has fully:

- i) ~~Demonstrated~~~~demonstrated~~ that a substantial number of the housing units in need of rehabilitation in the identified project area will be repaired;
- ii) ~~Demonstrated~~~~demonstrated~~ that the proposed housing rehabilitation project addresses the identified needs and deficiencies and moves to resolve the problems; and
- iii) ~~Outlined~~~~outlined~~ how the targeted need or area is clearly distinguished from the overall housing needs in the community.

B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~23~~)(A).

C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~23~~)(A).

D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(~~23~~)(A).

~~3)4)~~ Evidence of Coordination of Resources

A) An application shall receive a maximum rating if it has fully:

- i) ~~Explained~~~~explained~~ the use of all available resources including a description of local efforts to revitalize the area to achieve maximum impact upon the targeted need or area;
- ii) ~~Described~~~~described~~ the extent to which the proposed project represents the most effective option for achieving

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maximum impact; and

iii) ~~Provided~~provided evidence that the applicant has coordinated activities with a local social service provider regarding the identification of eligible households and housing units in need of rehabilitation to meet accessibility standards.

B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)~~(34)~~(A).

C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)~~(34)~~(A).

D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)~~(34)~~(A).

~~4)5)~~ Project Readiness

A) An application shall receive a maximum rating if it has fully:

i) ~~Developed~~developed a preliminary list of qualified general contractors which have expressed an interest in, and are available to perform, the proposed rehabilitation activities;

ii) ~~Demonstrated~~demonstrated substantial homeowner interest in both loan and/or grant portions of the identified project;

iii) ~~Documented~~documented that operational procedures and administrative structure have been established at the local level;

iv) ~~Documented~~documented that qualifications of, and procedures for selection of, housing inspectors have been established;

v) ~~Identified~~identified the specific types of, and priorities given to, work to be performed, including cost estimates;

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- vi) ~~Established~~ established clear and measurable rehabilitation standards and proposed a reasonable implementation schedule;
 - vii) ~~Included~~ included a description of the local application process that identified how the targeted population will be notified and encouraged to apply; and
 - viii) ~~Developed~~ developed preliminary financing plans, such as a commitment of leverage funds and a financing structure that considers residents' incomes.
- B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~45~~)(A).
- C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~45~~)(A).
- D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(~~45~~)(A).

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.110 Administrative Requirements

~~The~~ For the purpose of this Part, administrative requirements detailed in this Section, as well as those enumerated ~~specified~~ in 47 Ill. Adm. Code 1, ~~and as follow~~ are applicable to any grant awarded with respect to this Part.

- a) Compensation:- The method of compensation shall be in accordance with the applicable State laws relative to such compensation by which the Department is governed. Payments to the grantee are subject to the receipt of electronic requests for fund transfers or expenditure summaries. The first payment for program initiation may be an advance and should be the amount necessary to meet the first month's non-administrative cost needs. Thereafter, the payments are dual purpose in that they will be sufficient to cover the non-administrative expenditures to date as well as the cash needs of the grantee for the next 30 days. Administrative costs

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may be drawn as described above, or the grantee may draw down administrative needs in equal, quarterly increments. Each request shall be certified to the effect that the grantee has performed in conformance with the Grant Agreement and that it is entitled to receive the amount requisitioned.

- b) **Reporting:**— An electronic reporting system or an Expenditure Summary and Payment Request form shall be submitted to the Department to request cash.
- c) **Procurement:**— Procurement shall be conducted in accordance with 24 CFR 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments) (2004).
- d) **Records:**— CDAP records shall be maintained in accordance with 24 CFR 85 of the Illinois Local Records Act [50 ILCS 205] and 24 CFR 570.490 (2004) and are subject to the Freedom of Information Act [5 ILCS 140].
- e) **Financial Management:**
 - 1) Grantees shall comply with financial management procedures provided in OMB Circular A-87, "Cost Principles for State and Local Governments", published May 4, 1995, and standards promulgated by the American Institute of Certified Public Accountants (AICPA), Harborside Financial Center, 201 Plaza 3, Jersey City NJ 07311, June 2003, no later editions are incorporated.
 - 2) Audits shall be conducted in accordance with the Comptroller General's Standards for Audits of Governmental Organizations, Programs, Activities, or Functions, and the General Accounting Office's Guidelines for Financial and Compliance Audits of Federally Assisted Programs available from U.S. Comptroller General Standards, U.S. General Accounting Office, 441 G Street NW, Washington, DC 20548.
- f) **Bonding and Insurance:**
 - 1) **Bonding:**
 - A) **Grantees:** Grantees shall obtain a fidelity bond for each employee or official with access to project assets, accounting records, or checks. The bond (position or blanket) shall be in an amount at least to cover all CDAP funds contained in all bank accounts. The

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person with signature authority for the CDAP accounts must be bonded for this amount and his or her signature must appear on every check. The total bonding for each employee cannot be counted as a cumulative total. The cost of the fidelity bonds is a CDAP eligible administrative expense.

- B) Grant Administrators: If the grant administrator processes payments on behalf of the grantee, the grant administrator shall obtain a fidelity bond for each employee with access to project assets, accounting records, or checks. The bond (position or blanket) shall be in the minimum amount of \$750,000. At least one of the persons with signature authority for the CDAP accounts must be bonded for this amount and his or her signature must appear on every check. The cost of the fidelity bonds is a CDAP eligible administrative expense.

- 2) Flood Insurance: Grantees shall comply with the flood insurance purchase requirements of Section 102(e) of the Flood Disaster Protection Act of 1973 (42 USC 4001).

- g) Expenditure of Project Funds:— No project costs may be incurred prior to authorization, and release of funds will not occur without a fully executed grant ~~agreement~~~~award document~~. Costs may be incurred as follows:

- 1) CDAP administrative costs may be incurred as of the date of the grant award letter;
- 2) Non-CDAP project costs (leverage funds) and CDAP-funded design engineering costs may be incurred only after receiving a grant award letter and meeting environmental review requirements; and
- 3) CDAP-funded projects costs may be incurred only after all of the above conditions have been satisfied and all specific grant conditions have been met.

- h) Grant Agreement: When a grant has been awarded, the Grantee and the Department shall enter into a grant agreement. The grant agreement shall be executed between the Grantee and the Director of the Department or the Director's designee on behalf of the Department. The grant agreement shall contain substantive provisions, including, but not limited to the following:

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- 1) A recitation of legal authority pursuant to which the grant agreement is made;
- 2) An identification of the scope of work **that** identified the work or services to be performed or conducted by the Grantee;
- 3) An identification of the grant amount/funds;
- 4) The conditions and manner in which the Department shall disburse the grant funds subject, at all times, to annual funding from the federal government;
- 5) The Grantee's irrevocable promise to satisfy the leverage requirement, if required;
- 6) The Grantee agrees not to assign or transfer any of its rights, duties, or obligations without the written consent of the Department;
- 7) The Grantee's promise not to amend the scope of work or the budget without the Department's written consent. Failure to do so would result in a cost disallowance. The scope of work must be completed by the end date stated in the grant agreement unless a written request for an extension of time is submitted, at least, 30 days before the end date;
- 8) The Grantee agrees that it shall expend the grant funds and any accrued interest, if allowed to retain accrued interest, only for the purposes specified in the scope of work; and
- 9) The Grantee agrees that it shall refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds.

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.120 Non-discrimination

- a) Equal Employment Opportunity

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- 1) In carrying out ~~any project under this Part~~~~the program~~, the ~~grantee~~Grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The ~~grantee~~Grantee shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The ~~grantee~~Grantee shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The ~~grantee~~Grantee shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin. The ~~grantee~~Grantee shall incorporate the foregoing requirements of this paragraph in all of its contracts for program work.
 - 2) The ~~grantee~~Grantee shall cause or require to be inserted in full in any contract and subcontract for work, or modification thereof, all applicable ~~federal~~Federal and State Equal Employment Opportunity Provisions.
- b) Discrimination:— The ~~grantee~~Grantee shall refrain from unlawful discrimination in employment and will undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act.

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

Section 110.130 Complaint Process

In the event of ~~grantee~~Grantee complaint ~~or a Department finding/determination~~, the ~~grantee and the~~ Department ~~shall~~will follow the procedures ~~set forth~~outlined in 56 Ill. Adm. Code 2605 (Administrative Hearing Rules).

(Source: Amended at 29 Ill. Reg. 10017, effective June 28, 2005)

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- 1) Heading of the Part: Employer Training Investment Program
- 2) Code Citation: 56 Ill. Adm. Code 2650
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 2650.10 | Amendment |
| 2650.20 | Amendment |
| 2650.40 | Amendment |
| 2650.50 | Amendment |
| 2650.110 | Amendment |
| 2650.120 | Amendment |
| 2650.130 | Amendment |
| 2650.310 | Amendment |
| 2650.320 | Amendment |
| 2650.330 | Amendment |
- 5) Statutory Authority: Implementing Section 605-800 and authorized by Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605/605-800 and 605-95]
- 5) Effective Date of Amendments: June 28, 2005
- 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: 28 Ill. Reg. 14309; November 5, 2004
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Grammatical and stylistic 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? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These rules are for the Employer Training Investment Program (ETIP). The rules are based upon the old Industrial Training Program (ITP) rules since the ETIP program uses the same statutory authority. These rules encompass both the single and multi-company options for the small and large company components of the ETIP program. There are no real substantive changes between the ITP and the ETIP rules.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
620 East Adams Street
Springfield, IL 62701

217/557-1820

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT

CHAPTER III: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY~~COMMUNITY AFFAIRS~~

PART 2650

EMPLOYER TRAINING INVESTMENT ~~INDUSTRIAL TRAINING~~ PROGRAM

SUBPART A: GENERAL REQUIREMENTS

| | |
|----------|------------------------------------------------|
| Section | |
| 2650.10 | Purpose |
| 2650.20 | Definitions |
| 2650.30 | Eligible Applicants and Training Activities |
| 2650.40 | Allowable Costs |
| 2650.50 | Grant Administration Requirements |
| 2650.60 | Nondiscrimination |
| 2650.70 | Selection for Funding (Recodified) |
| 2650.80 | Allowable Costs (Recodified) |
| 2650.90 | Grant Administration Requirements (Recodified) |
| 2650.100 | Nondiscrimination (Recodified) |

SUBPART B: SINGLE COMPANY APPLICANTS

| | |
|----------|---------------------------|
| Section | |
| 2650.110 | Application Procedures |
| 2650.120 | Application Documentation |
| 2650.130 | Application Evaluation |
| 2650.140 | Selection for Funding |

SUBPART C: SECONDARY AND POST-SECONDARY EDUCATION INSTITUTION APPLICANTS

| | |
|----------|--------------------------------------|
| Section | |
| 2650.210 | Application Procedures (Repealed) |
| 2650.220 | Application Documentation (Repealed) |
| 2650.230 | Application Evaluation (Repealed) |
| 2650.240 | Selection for Funding (Repealed) |
| 2650.250 | Reporting Requirements (Repealed) |

SUBPART D: MULTI-COMPANY AND MEMBERSHIP

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TRAINING PROJECT APPLICANTS

Section

| | |
|----------|----------------------------------------|
| 2650.310 | Application Procedures |
| 2650.320 | Application Documentation |
| 2650.330 | Application Evaluation |
| 2650.340 | Selection for Funding |
| 2650.350 | Administrative Requirements (Repealed) |

AUTHORITY: Implementing Section 605-800 and authorized by Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605/605-800 and 605-95].

SOURCE: Adopted at 11 Ill. Reg. 11642, effective June 29, 1987; recodified at 13 Ill. Reg. 15386; emergency amendments at 13 Ill. Reg. 16126, effective September 27, 1989, for a maximum of 150 days; emergency expired February 24, 1990; amended at 14 Ill. Reg. 5075, effective March 20, 1990; amended at 16 Ill. Reg. 17969, effective November 17, 1992; amended at 19 Ill. Reg. 15374, effective October 20, 1995; amended at 21 Ill. Reg. 12124, effective August 26, 1997; amended at 25 Ill. Reg. 2987, effective February 9, 2001; amended at 29 Ill. Reg. 10047, effective June 28, 2005.

SUBPART A: GENERAL REQUIREMENTS

Section 2650.10 Purpose

Through the Illinois ~~Employer Training Investment~~~~Industrial Training~~ Program (Program), the Department of Commerce and ~~Economic Opportunity~~~~Community Affairs~~ (Department) will provide training grants to businesses operating or locating in Illinois in conjunction with planned permanent expansion, location or retention activities; and to multi-company training projects sponsored by business or industry associations, institutions of secondary and higher education, strategic business partnerships, large manufacturers for supplier network companies, and labor organizations. The purpose of the Program is to enhance employment opportunities for Illinois citizens by assisting Illinois employers in the training of their workforce, to assist multi-company training projects in addressing common employee training needs identified by participating companies, and to facilitate self-employment by encouragement and preparation through comprehensive, instructional programs and services and entrepreneurial education.

(Source: Amended at 29 Ill. Reg. 10047, effective June 28, 2005)

Section 2650.20 Definitions

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Director – The Director of the Department of Commerce and Economic Opportunity~~Community Affairs~~.

Employee Training – Training programs, either on-the-job, classroom or any combination thereof, sponsored by an employer or other eligible grant recipient on behalf of employers, which are intended to provide employees with the skills required to perform their current job or as a condition of continued employment. The employee skill requirements are established by the employer or participating employers and may include basic, technical and managerial skills.

~~Entrepreneurial Education and Training—Any education and training program operated by or in cooperation with the Illinois Institute for Entrepreneurial Education for youth and/or adult learners that is intended: to enhance the business building capabilities of aspiring and practicing entrepreneurs; to assist executives in transition who are interested in entrepreneurial growth opportunities; to encourage an early interest in entrepreneurship among youth; to develop programs for successful companies that want to expand the growth of entrepreneurship within their own organizations; and/or, to introduce low-income and at risk youth to the world of business and entrepreneurship by teaching them how to develop and operate their own small business; and/or to enhance the business building capabilities of researchers, developers, inventors, professors and other to successfully commercialize technology into viable business enterprises.~~

Grantee – Any program applicant whose proposal is funded by the Department through a grant.

Labor Organization – Any collective bargaining unit or any labor entity formed by collective bargaining units such as state labor councils, district labor councils, local central labor councils and international unions as well as the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).

Large Company – A company with facilities in Illinois that employs at least 250 full-time employees. If the grant amount is less than \$100,000, the Department shall serve the grantee as a Small to Mid-Sized Company, regardless of size, in circumstances where a grantee would be unduly burdened with the reporting requirements imposed on large companies based on variables including, but not limited to: amount of grant; previous experience; number of employees at start and end of training; term of grant; and number of trainees.

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Large Manufacturers Supplier Network – Any company located or with facilities in the State of Illinois which supplies products or services to an original equipment manufacturer or large manufacturing assembly facility in Illinois.

Large Multi-Company Training Project – Any project submitted for the benefit of more than two companies ~~that~~which addresses the common employee training, retraining or skills upgrading needs identified by participating companies. The majority of companies participating in the project shall be large. High Volume Multi-Company Projects (\$500,000 or more) and Large Manufacturers Supplier Network Projects, regardless of the size of the participating company, shall also be included in this definition. The participating companies shall not include units of local, municipal, home rule, county, ~~State~~ or federal government or government agencies or government-operated facilities.

Location Activities – Activities necessary to retain existing companies and to place or attract new companies to Illinois (e.g., training). All location training incentives, regardless of company size, will be treated as large companies for programmatic purposes.

New Employee – An individual who is hired by the grantee during the term of a training contract or who is permanently transferred to Illinois during the term of a training contract.

Planned Permanent Expansion – Any of the following will apply:

Permanent increase in the workforce (no minimum number of new jobs required);

Addition of new product line or expansion of existing product line; or

New capital investment in machinery or equipment.

Retention Activities – Activities necessary to keep existing companies in Illinois that might otherwise leave the State or reduce their workforce (e.g., retraining, upgrading, cross-training).

~~Self-Employment Training Program – A competency-based business management training program in which demonstrated proficiency to complete a business operating and financing plan is a prerequisite to successful completion.~~

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Retraining – The training of an employee with the intent that the employee will learn to perform a significantly different type of job than was previously held by that employee.

Small to Mid-Sized Company – A company with facilities in Illinois that employs fewer than 250 full-time employees. If the grant amount is greater than or equal to \$100,000, or if the grant is in connection with a development assistance package subject to applicable recapture provisions pursuant to Section 25 of the Corporate Accountability for Tax Expenditures Act [20 ILCS 715/25], the Department shall serve the grantee as a large company, regardless of size, in circumstances where a grantee would be better served as a large company based on variables including, but not limited to: amount of grant; previous experience; number of employees at start and end of training; term of grant; and number of trainees.

Small to Mid-Sized Multi-Company Training Project – Any project submitted for the benefit of more than two companies that addresses common employee training, retraining or skills, upgrading needs identified by participating companies. The majority of companies participating in the project shall be small to mid-sized. The participating companies shall not include units of local, municipal, home rule, county, State or federal government or government agencies or government-operated facilities.

Strategic Business Partnership – A formal or informal agreement between more than two businesses with facilities in Illinois where an objective of the partnership is to address employee training or other common workforce development issues among the participating businesses.

Trainee – A full-time existing or newly-hired employee of a company who is participating in a training, retraining or skills upgrading program. Part-time, seasonal, temporary and/or contractual employees cannot be considered trainees for program reimbursement.

Upgrade Training – The enhancement of employees' job skills with the intent that the employee will continue working at the same type of job (e.g., cross-training of skilled employees).

(Source: Amended at 29 Ill. Reg. 10047, effective June 28, 2005)

Section 2650.40 Allowable Costs

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- a) Grants for employee training to single companies will allow for reimbursement or payment on the terms and conditions agreed to between the grantee and the Department through the execution of a Notice of Grant Agreement. The Agreement includes the following sections, all of which are incorporated and made part of the Agreement: (I) Grantee's Approved Budget, (II) Special Grant Conditions, (III) Grantee's Scope of Work, (IV) Program Terms and Conditions, (V) General Provisions, and (VI) Required Certifications. No grant shall exceed 50% of the total approved training costs. Allowable costs for single company training projects include:
- 1) Instructor costs, including wages, fringe benefits and travel expenses.
 - 2) Costs for tuition and educational fees.
 - 3) Training materials.
 - 4) Rent or lease of training equipment and/or facilities.
 - 5) Other usual and customary training costs.
 - 6) Trainee travel expenses.
 - 7) Trainee wages and fringe benefits.
 - 8) Audit costs.
- b) Grants for multi-company or membership training projects will allow for reimbursement or payment on the terms and conditions agreed to between the grantee and the Department through the execution of a Notice of Grant Agreement. The Agreement includes the following sections, all of which are incorporated and made part of the Agreement: (I) Grantee's Approved Budget, (II) Special Grant Conditions, (III) Grantee's Scope of Work, (IV) Program Terms and Conditions, (V) General Provisions, and (VI) Required Certifications. No grant shall exceed 50% of the total approved training costs. For the multi-company training projects, the Department requires that a minimum of 50% of the local contribution be a direct cash contribution toward the training project by the companies participating in the training project. Allowable costs for multi-company or membership training projects include:

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- 1) Administrative costs of tracking, documenting, reporting, auditing and processing training funds or project costs. Administrative costs must be reasonable and shall not exceed 15% of the total approved direct training expenditures, including indirect costs.
- 2) Costs of curriculum development. The Department will only reimburse for the costs of curriculum development when such curricula are judged by the Department as being of benefit to multiple Illinois employers and such curricula will be considered to be in the public domain.

The Grantee shall include the following statement in all written materials produced in whole or in part by funds awarded under this Grant Agreement: "This publication and material were supported in whole or in part by an Employer Training Investment~~Industrial Training~~ Program grant awarded by the Illinois Department of Commerce and Economic Opportunity~~Community Affairs~~. Representations made by this publication and material do not necessarily reflect the opinions and conclusions of the Department."

The Department reserves the right to request at least one copy of all training materials used by the Grantee or any subcontractor for training which is eligible for reimbursement under the grant. The Department will not distribute any proprietary information nor circulate any training materials without the expressed consent of the Grantee or subcontractor with the exception of those materials which are developed in whole or in part with State funds.

- 3) Training materials, including manuals, workbooks, videotapes and other materials that are used for training purposes only. Any item that can be depreciated will not be considered to be training materials.
- 4) Instructor costs, including wages, fringe benefits, and travel expenses.
- 5) Rent or lease of training equipment and/or facilities.
- 6) Other usual and customary training costs.

(Source: Amended at 29 Ill. Reg. 10047, effective June 28, 2005)

Section 2650.50 Grant Administration Requirements

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- a) Audits – The Department reserves the right to conduct special audits at any time during normal working hours of funds expended under Department grants (e.g., evidence of fraud or abuse). If the Department determines that an audit of grant funds will be required for an individual company, the scope of the audit will be outlined in the grant contract.
- b) Monitoring – The Director will ensure that a minimum of one on-site grant monitoring visit is conducted by the Department either during the course of the grant period or within six months following the end of the grant period. The Department will verify that the Grantee's financial management system is structured to provide for accurate, current and complete disclosure of the financial results of the grant program in accordance with all provisions, terms and conditions contained in the grant contract. The Department also reserves the right to contact any company participating in a multi-company training project funded by this program to verify the information submitted by the Grantee on behalf of the participating company.
- c) Training Evaluation Report – The Grantee must submit to [DCEODCCA](#), within 60 days following the end of the grant period, a descriptive written evaluation of the results of the training experience by either the company, in the case of single-company grantees, or the companies participating in the training project, in the case of multi-company training projects. The narrative evaluation report should be based on the measurable outcomes or benefits contained in the grant application submitted and approved by [DCEODCCA](#). [DCEODCCA](#) reserves the right to withhold any future year funding for noncompliance with this provision.
- d) Reporting Requirements – To receive payment for training costs which have been incurred by a Grantee in accordance with the Scope of Work and Budget contained in the grant contract with the Department, the Grantee shall furnish evidence to the Department of having completed training by following either a monthly certification schedule or other schedule negotiated by the Department and the Grantee. This certification shall be filed on forms provided to the Grantee by the Department. Payments to the Grantee are subject to the initiation of an invoice-voucher which shall be due to the Department according to the schedule established in the grant contract. A project summary report shall be due to the Department either each month, or as negotiated, consisting of an analysis of major project activities; a listing of clients served, if the project served clients; and an evaluation of how the project's operation is related to the objectives of the grant.

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- e) Grant Closeout – The Grantee shall be responsible for completing the grant closeout package which shall be provided by the Department and identifies the financial status of these grant funds. The Grantee, upon submission of the closeout package, or within 45 days after expiration of the grant, whichever is first, shall refund to the Department any balance of funds, including administrative costs, which were unexpended or unobligated at the end of the grant period. In addition, the Grantee shall repay the Department for any funds that are determined by the Department to have been spent in violation of the grant contract. If the grant contract should terminate for any reason, the closeout package shall be due within 45 days after the date of termination.
- f) For the purpose of Subparts B and D of this Part, the provisions specified in 47 Ill. Adm. Code 1.30, 1.40, 1.60, 1.70, 1.80, 1.90, 1.100, 1.105, 1.110, 1.120, 1.140, and 1.185 are applicable.

(Source: Amended at 29 Ill. Reg. 10047, effective June 28, 2005)

SUBPART B: SINGLE COMPANY APPLICANTS

Section 2650.110 Application Procedures

Applications will be accepted at any time. Receipt of an application does not commit the Department to award a grant or to pay any costs incurred in the preparation of an application. The applicant should not procure, contract for, or incur costs for services or supplies prior to the signing of a written contract. The contents of an approved application will become part of the contract awarded to the applicant. All data, material, and documentation originated by an application and prepared for an application or contract shall belong exclusively to the State of Illinois and the Department. The Department will supply interested businesses with an application upon request. Applications for grant funds shall be submitted to the Office of ~~Employer Training Investment~~~~Industrial Training~~ in Chicago or Springfield on forms provided by the Department along with any necessary attachments which may be required.

(Source: Amended at 29 Ill. Reg. 10047, effective June 28, 2005)

Section 2650.120 Application Documentation

Applications will include documentation of the following:

- a) Application Cover Page – which contains name, address, and telephone number of applicant; name, address, e-mail address and telephone and fax numbers of

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training coordinator, if different from the applicant; amount of program funds being requested; starting and ending dates of program; total number of new and upgraded employees to be trained; current number of employees working in administration and production; company Federal Employment Identification Number (~~FEIN~~F.E.I.N.); North American Industry Classification System (NAICS)~~Standard Industrial Code (S.I.C.)~~; Illinois Unemployment Insurance Account Code; Senate District number; Representative District number; indication whether the company is located in an Illinois State Enterprise Zone; indication whether company is reopening a facility which had been previously closed; the name of labor unions representing employees at the facility, if applicable; and an indication of whether the company applied for or received training assistance under the program in prior fiscal years.

- b) Business Certification – a form which must be signed and dated by the Chief Executive Officer or duly authorized representative of the applicant company certifying that the applicant:
- 1) Understands that the receipt by the Department of an application for training assistance is not a guarantee or commitment by the Department for funding;
 - 2) Agrees to discuss with representatives of the local Workforce Investment Act (WIA) office the hiring of WIA-eligible individuals for new jobs which are created as a result of this project;
 - 3) Agrees to submit to the Department, on a monthly basis, information regarding training activity as required for reimbursement under the Employer Training Investment~~Industrial Training~~ Program;
 - 4) Agrees to submit to the Department, within 60 days following the end of the grant period, a written evaluation of the results of the training experience by the company. The evaluation report should be based on the measurable outcomes or benefits contained in this grant application;
 - 5) Maintains that it is a company in good standing, authorized to do business in Illinois and has no delinquent State tax liabilities;
 - 6) Authorizes the Department of Commerce and Economic Opportunity~~Community Affairs~~ to verify in any manner deemed appropriate any and all items indicated in this application which include

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information obtained through the Illinois Department of Employment Security, Consumer Credit Bureau Services and business reporting services such as Dun and Bradstreet;

- 7) Agrees to immediately notify the Department regarding any major business or personnel changes at their facility (e.g., layoff situations, changes in training plans or schedules);
 - 8) Acknowledges that if their application is funded, they will be required to comply with the Illinois Drug Free Workplace Act, the Americans with Disabilities Act and the Illinois Human Rights Act and any future laws enacted which may be applicable to the grant;
 - 9) To the best of its knowledge as of the date of the application, is not in material violation of any local, State or federal labor laws at the site and that abnormal labor conditions such as a strike or lockout do not exist at this site;
 - 10) Maintains that all information contained in the application, including the documentation, is accurate, complete and true to the best of their knowledge;
 - 11) Agrees to submit to the Department by the end of the grant period the Social Security Number of all employees participating in the approved training program;
 - 12) Agrees to notify all trainees that, if funded, the training is being partially funded by an Employer Training Investment~~Industrial Training~~ Program grant administered by the Department of Commerce and Economic Opportunity~~Community Affairs~~; and
 - 13) Agrees that, upon request by the Department, it will conduct an audit of the grant funds in accordance with generally accepted auditing standards and any special audit conditions that the Department deems necessary to ensure the accountability of public funds.
- c) Training Outline – which details, by job classification or training course, minimum skills desired for entry into training by job or training course and additional skills to be acquired in training by job or training course.

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- d) Program Outline Timetable – which details the training schedule of employee entry by job classification or training course per month into the program.
- e) Training Outline Data/Trainees – which lists the job classification or training course and the number of trainees for each classification or training course. This form lists the number of new and upgraded trainees, the number of hours of training requested for each trainee or training course, and the average wage paid to the employees in that job classification or training course.
- f) Training Outline Data/Trainers – which identifies all instructors or entities conducting training. The number of instructors, the total number of instructional hours and the instructor costs, including tuition and fees, are required.
- g) Project Budget Summary – which details the total cost of training and the requested grant amounts of the Program and other available training programs in Illinois (e.g., Workforce Investment Act, Welfare-To-Work, Secretary of State Literacy Office Grant Program, ~~Prairie State 2000 Program~~).
- h) Attachments as applicable:
 - 1) Attach a brief narrative explaining each line item on the budget summary. The narrative shall state how each "total costs" figure was obtained and should provide information regarding how all training hours and other training costs will be tracked and documented.
 - 2) Financial statements consisting of profit and loss statements and balance sheets for the last ~~two~~three years and tax returns for the last ~~two~~three years at a minimum. For newly-established companies, a three-year projected balance sheet and profit and loss statement and a one-year monthly cash flow statement are required. Companies submitting financial information more than six months old must submit a statement regarding why more current information is not available.
 - 3) Transmittal letter providing information on: recent trends and significant events in the company's workforce, sales, competition, production, markets, and facility locations; how applicant will coordinate and use other training programs for funding, as appropriate; describe training activities, including training content, training providers, timeline, training methods, assessment techniques and how the training is linked to any new capital investment; and how these activities will be linked to work unit

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and/or company performance.

- i) Disclosure of Financial Information – a form which may be signed and dated by the Chief Executive Officer certifying that the commercial and financial information contained in the grant application is proprietary, privileged, confidential or is of a nature that its disclosure may cause competitive harm to the applicant, thereby rendering the application exempt from disclosure under Section 7 of the Freedom of Information Act [5 ILCS 140].

(Source: Amended at 29 Ill. Reg. 10047, effective June 28, 2005)

Section 2650.130 Application Evaluation

The Department shall screen all applications to determine that all requirements of the application package have been addressed. Complete applications will be reviewed and evaluated comparatively by Department staff. This review and evaluation process will be completed within 75 days of receipt of all required information. Department staff will conduct a technical and financial evaluation of each application.

- a) Technical Evaluation Component – Each application will be reviewed to assure compliance with technical program requirements as detailed in Sections 2650.30 and 2650.120.
- b) Financial Evaluation Component – The company's audited financial statements, including the annual balance sheets and profit and loss statements for the past three years, or other acceptable financial information as determined by the Department, will be reviewed through a standard credit analysis which will determine the: liquidity and debt coverage for the project; ability of the company to manage debt; business trends; and projected earnings. This data will be compared to similar data for companies in the same industry using "Robert Morris Associates Annual Statement Studies" (~~2005-1999~~), if such industry is evaluated by this source. This standard credit analysis will determine the financial stability of the company.
- c) Application Evaluation – Those applications determined eligible for funding based on the evaluation process described in subsections (a) and (b), will be evaluated according to the following criteria:
 - 1) Project readiness (e.g., time schedule for project initiation, etc.);

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- 2) Average wage rate of trainees;
- 3) New capital investment (e.g., training directly relates to jobs, etc.) and capital investment per trainee;
- 4) Applicant has identified specific and measurable training objectives;
- 5) Financial feasibility of the project as determined by the financial evaluation described in subsection (b);
- 6) Compliance with terms and conditions under previous [Employer Training Investment](#)~~Industrial Training~~ Program grant awards;
- 7) County unemployment rate;
- 8) Applicant is adversely affected by foreign competition or training would provide company an advantage in competing in a global market;
- 9) Quality and consistency of the proposed training program;
- 10) Illinois-based company;
- 11) Level of value-added for the specific industry;
- 12) Industries specified in annual application packages; and
- 13) Located in a State-designated enterprise zone.

(Source: Amended at 29 Ill. Reg. 10047, effective June 28, 2005)

SUBPART D: MULTI-COMPANY AND MEMBERSHIP
TRAINING PROJECT APPLICANTS**Section 2650.310 Application Procedures**

Applications will be accepted at any time. Receipt of an application does not commit the Department to award a grant or to pay any costs incurred in the preparation of an application. The applicant and any companies participating in the project shall not procure, contract for or incur costs for services or supplies prior to the signing of a written contract. The contents of an approved application shall become part of the contract awarded to the applicant. All data,

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material and documentation originated by an application and prepared for an application or contract shall belong exclusively to the State of Illinois and the Department. The Department shall supply interested businesses, business and industry associations, institutions of secondary or higher education, strategic business partnerships, labor organizations or other organizations with an application upon request. Applications for grant funds shall be submitted to the Department's Office of ~~Employer Training Investment~~Industrial Training in Chicago or Springfield on forms provided by the Department along with any necessary attachments which may be required.

(Source: Amended at 29 Ill. Reg. 10047, effective June 28, 2005)

Section 2650.320 Application Documentation

Applications shall include documentation of the following:

- a) A history and summary of the qualifications of the organization submitting the application, including any related experience in coordinating, conducting or sponsoring training programs for businesses or its membership.
- b) A description of how the companies or members will be/were selected to participate in the project and an explanation of how the common employee training needs were determined. The applicant also should indicate if a training needs assessment has been conducted.
- c) A company profile for each of the participating companies, including how long they have been in business, a description of the products manufactured or services provided, the location of their facilities, the North American Industry Classification System, ~~Standard Industrial Code~~ the current number of employees, the name of any labor organizations representing the employees (if applicable) and a company contact and telephone number.
- d) A description of any new capital investment made by the participating companies and if it relates to the proposed training program.
- e) The type of training being requested (e.g., classroom, on-the-job training).
- f) The objectives of the training.
- g) Where the training will be conducted.

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- h) The names of the training providers.
- i) The expected measurable outcomes or benefits to the participating companies of the training program and a description of how these benefits will be measured.
- j) An Applicant Certification form which is signed and dated by the Chief Executive Officer or duly authorized representative of the applicant certifying that the applicant:
 - 1) Understands that receipt by the Department of Commerce and ~~Economic Opportunity~~~~Community Affairs~~ of an application for training assistance is not a guarantee or commitment by ~~DCEODCCA~~ for funding;
 - 2) Agrees to submit to ~~DCEODCCA~~, on either a monthly basis or other basis agreed upon by the Department and the Grantee, information regarding training activity as required for training payment under the ~~Employer Training Investment~~~~Industrial Training~~ Program;
 - 3) Agrees to submit to ~~DCEODCCA~~, within 60 days following the end of the grant period, a written evaluation of the results of the training experience by the participating companies. The evaluation report should be based on the measurable outcomes or benefits contained in the grant application;
 - 4) Authorizes ~~DCEODCCA~~ to verify in any manner deemed appropriate any and all items indicated in this application which include information obtained through the Illinois Department of Employment Security, Consumer Credit Bureau Services and business reporting services such as Dun and Bradstreet;
 - 5) Agrees to submit to ~~DCEODCCA~~ by the end of the grant period the Social Security Number of the participating employees and the Unemployment Insurance Employer Account Number of all employers participating in an approved training program;
 - 6) Agrees to notify ~~DCEODCCA~~ promptly regarding any major changes in the project (e.g., layoff situations at participating companies, changes in training plans or schedules);
 - 7) Maintains that, to the best of its knowledge as of the date of the application, no employers participating in the project are in material

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violation of local, State or federal labor laws at any sites involved in the application, and that abnormal labor conditions such as a strike or lockout do not exist at any of these sites;

- 8) Acknowledges that, if the application is funded, the applicant will be required to comply with the Illinois Drug Free Workplace Act, the Illinois Human Rights Act, the Americans with Disabilities Act and any future laws enacted which may be applicable to the grant;
 - 9) Maintains that all information contained in this application, including the documentation, is accurate, complete and true to the best of their knowledge;
 - 10) That, if funded, all companies participating in the training and the trainees of those companies will be notified in writing that the training is partially funded by the Employer Training Investment~~Industrial Training~~ Program grant administered by the Department of Commerce and Economic Opportunity~~Community Affairs~~; and
 - 11) Agrees that, upon request by the Department, it will conduct an audit of grant funds in accordance with generally accepted auditing standards and any special audit conditions that the Department deems necessary to ensure the accountability of public funds.
- k) Training Outline – which provides a descriptive picture of each training module or job classification, the requirements for selection to enter training and additional skills to be acquired through training.
 - l) Training Outline Data/Trainees – by training module, the number of employees in training, the proposed number of hours of training requested for each trainee and the average wage rates of the trainees.
 - m) Training Outline Data/Trainers – which details the trainers or course names, the number of instructional hours and the cost of the training.
 - n) A project budget summary listing administration, internal instructor wages and fringe benefits, tuition costs, trainee wages and fringe benefits, training materials and other costs. The budget summary shall contain the total training costs, the local/company share, other sources of training assistance and the amount requested from the Employer Training Investment~~Industrial Training~~ Program.

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- o) A budget narrative detailing how each line item in the budget summary was obtained and how the costs of each line item will be tracked and documented.

(Source: Amended at 29 Ill. Reg. 10047, effective June 28, 2005)

Section 2650.330 Application Evaluation

The Department shall screen all applications to determine if all requirements of the application package have been addressed. Complete applications shall be reviewed and evaluated comparatively by Department staff. This review and evaluation process will be completed within 75 working days after receipt of all required information. Department staff shall conduct a technical and programmatic evaluation of each application.

- a) Technical/Programmatic Evaluation Component – Each application shall be reviewed to assure compliance with technical program requirements as detailed in Section 2650.30.
- b) Application Evaluation – Those applications determined eligible for funding based on the evaluation process described in subsection (a) ~~above~~ shall be evaluated according to the following criteria:
 - 1) Project readiness (e.g., time schedule for project initiation);
 - 2) The number of participating companies and the number of employees of those participating companies who will receive training;
 - 3) The cost effectiveness of the training (e.g., cost per trainee or cost per business);
 - 4) New capital investment by participating companies;
 - 5) How closely the training is related to the nature of the business process and the transferability of the skills obtained from the training;
 - 6) Other significant benefits or impact (e.g., project is for high technology, quality and/or productivity improvements or export oriented, job retention or improving business competitiveness);
 - 7) Level of performance by applicant organization and/or participating

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employers under previous Employer Training Investment Industrial Training Program grant awards;

- 8) Evaluation measures utilized to determine the effectiveness of the training (e.g., the identification of quantifiable training outcome measures);
- 9) Extent to which the project demonstrates that it is employer driven; ~~and~~
- 10) In making grant awards to original equipment manufacturers (OEM) for supplier training programs, the Director shall take into consideration the extent to which applications: demonstrate advanced consultation between organized labor and management; specify procedures that provide equitable access to training for existing supplier firms; and demonstrate that the proposed training will not result in the transfer of work from the OEM to supplier firms that, in turn, results in the displacement of the OEM's existing labor force. Notwithstanding these considerations, the Department may make grant awards if both labor and management support the award. The Department shall make grant awards to OEMs for supplier training only when those awards will not negatively impact the labor-management relationship. Further, the Department shall retain the responsibility to review and approve the final curricula and list of supplier firms to receive training under all grant awards; ~~and-~~
- 11) Extent to which the applicant has demonstrated the impact of the training on the regional economy.

(Source: Amended at 29 Ill. Reg. 10047, effective June 28, 2005)

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- 1) Heading of the Part: Certification
- 2) Code Citation: 23 Ill. Adm. Code 25
- 3)

| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
|--------------------------|-------------------------|
| 25.11 | Amendment |
| 25.22 | Amendment |
| 25.32 | Amendment |
| 25.42 | Amendment |
| 25.82 | Amendment |
| 25.100 | Amendment |
| 25.115 | Amendment |
| 25.125 | Amendment |
| 25.160 | Amendment |
| 25.235 | Amendment |
| 25.450 | Amendment |
- 4) Statutory Authority: 105 ILCS 5/2-3.6, 14C-8, and Art. 21
- 5) Effective Date of Amendments: June 30, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? These amendments do contain an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act; this is found in existing language of Section 25.115(b).
- 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 11, 2005; 29 Ill. Reg. 3421
- 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? No changes were requested by JCAR, and no agreements letter was issued.

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

14) Are there any amendments pending on this Part? Yes

| <u>Section</u> | <u>Action</u> | <u>Illinois Register Citation</u> |
|----------------|---------------|-----------------------------------|
| 25.37 | Amendment | 29 Ill. Reg. 4812; April 8, 2005 |
| 25.100 | Amendment | 29 Ill. Reg. 4812; April 8, 2005 |
| 25.215 | Amendment | 29 Ill. Reg. 4812; April 8, 2005 |
| 25.225 | Amendment | 29 Ill. Reg. 4812; April 8, 2005 |
| 25.245 | Amendment | 29 Ill. Reg. 4812; April 8, 2005 |
| 25.425 | Amendment | 29 Ill. Reg. 4812; April 8, 2005 |
| 25.464 | Amendment | 29 Ill. Reg. 4812; April 8, 2005 |
| 25.497 | Amendment | 29 Ill. Reg. 4812; April 8, 2005 |
| 25.510 | Amendment | 29 Ill. Reg. 4812; April 8, 2005 |
| 25.550 | New Section | 29 Ill. Reg. 4812; April 8, 2005 |
| 25.855 | Amendment | 29 Ill. Reg. 4812; April 8, 2005 |
| 25.10 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.11 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.15 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.20 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.22 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.25 | New Section | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.30 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.32 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.35 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.40 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.42 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.80 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.82 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.85 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.99 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.140 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.210 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.220 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.230 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.240 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.252 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.255 | New Section | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.322 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.333 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |

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|--------|-----------|---------------------------------|
| 25.344 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.355 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.420 | Repeal | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.705 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.710 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.728 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.730 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.760 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.765 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.775 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |
| 25.905 | Amendment | 29 Ill. Reg. 7932; June 3, 2005 |

- 15) Summary and Purpose of Amendments: Section 25.11(f) is being revised with respect to the definition of "four years of teaching experience" so that an individual who is approaching the end of the fourth year and who is expected to complete that year in his or her current position will be able to apply for the standard certificate.

The slight revision in each of Sections 25.22, 25.32, 25.42, and 25.82 is technical in nature. Section 25.725 was recently repealed and its currently needed content was subsumed in Section 25.720, so these references need to be updated.

The addition of a new subsection (m) to Section 25.100 will create another exception to the general model for adding endorsements in the case of "technology specialist". Since Section 25.100 was added last year, staff have found it very difficult to determine which coursework should be counted toward a major area of concentration relevant to this endorsement. Terminology in this area varies widely, and it seems more prudent to require passage of the content-area test based on the applicable standards so as to ensure that candidates are prepared to perform the functions of the technology specialist.

Section 25.115 is being revised to clarify that the "programs" under discussion in these rules are only those that prepare individuals for certification.

Section 25.125(d) discusses the review team that is involved in the on-site accreditation review. The requirement for ISBE team members and an ISBE co-chair on visits involving NCATE accreditation is being deleted. At the same time, the role of the ISBE consultant is being clarified, i.e., this individual does participate in the visit.

The procedure outlined in Section 25.160 has proven to contain one unnecessary step that will be eliminated in this rulemaking. When the State Teacher Certification Board's recommendation is for approval or accreditation that is not provisional or conditional,

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there is no need for the affected institution to submit a response and consequently no need for a 30-day waiting period before the recommendation is forwarded to the State Board of Education.

The requirement that each candidate for a school psychologist's credential must have completed a program accredited by the National Association of School Psychologists (Section 25.235(a)) was widely applauded during last year's rulemaking on this subject but has since proven to create unnecessary barriers. This is especially true in the case of experienced school psychologists from other states who cannot meet the requirement because NASP's accreditation is more recent than their preparation.

We have determined that the long-standing rule on lapsed certificates (Section 25.450) is unnecessarily stringent in terms of the timeframe within which individuals serving on reinstated certificates must complete the statutorily required five semester hours of college credit. This revision will allow semester hours earned either during the certification year of reinstatement or during the five immediately preceding years to be counted for this purpose.

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

Dennis Williams, Division Administrator
Certification Division
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

(217) 782-7702

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 25

CERTIFICATION

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SUBPART B: CERTIFICATES

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| 25.15 | Standards for Certain Certificates |
| 25.20 | Requirements for the Elementary Certificate |
| 25.22 | Requirements for the Elementary Certificate (2004) |
| 25.30 | Requirements for the Secondary Certificate |
| 25.32 | Requirements for the Secondary Certificate (2004) |
| 25.35 | Acquisition of Subsequent Certificates; Removal of Deficiencies |
| 25.37 | Acquisition of Subsequent Teaching Certificates (2004) |
| 25.40 | Requirements for the Special Certificate |
| 25.42 | Requirements for the Special Certificate (2004) |
| 25.43 | Standards for Certification of Special Education Teachers |
| 25.45 | Standards for the Standard Special Certificate – Speech and Language Impaired |
| 25.50 | General Certificate (Repealed) |
| 25.60 | State Special Certificate, Grades 11-12, For Teaching Elective Subjects (Repealed) |
| 25.65 | Alternative Certification |
| 25.67 | Alternative Route to Teacher Certification |
| 25.70 | State Provisional Vocational Certificate |
| 25.75 | Part-time Provisional Certificates |
| 25.80 | Requirements for the Early Childhood Certificate |
| 25.82 | Requirements for the Early Childhood Certificate (2004) |
| 25.85 | Special Provisions for Endorsement in Foreign Language for Individuals Currently Certified |
| 25.86 | Special Provisions for Endorsement in Foreign Language for Individuals Prepared |

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- as Teachers But Not Currently Certified
- 25.90 Transitional Bilingual Certificate and Examination
- 25.92 Visiting International Teacher Certificate
- 25.95 Majors, Minors, and Separate Fields for the Illinois High School Certificate (Repealed)
- 25.99 Endorsing Teaching Certificates
- 25.100 Endorsing Teaching Certificates (2004)

SUBPART C: APPROVING PROGRAMS THAT PREPARE
PROFESSIONAL EDUCATORS IN THE STATE OF ILLINOIS

- Section
- 25.110 System of Approval: Levels of Approval (Repealed)
- 25.115 Recognition of Institutions, Accreditation of Educational Units, and Approval of Programs
- 25.120 Standards and Criteria for Institutional Recognition and Program Approval (Repealed)
- 25.125 Accreditation Review of the Educational Unit
- 25.127 Review of Individual Programs
- 25.130 Special Provisions for Institutions Subject to Conditions for Continuing Accreditation
- 25.135 Interim Provisions for Continuing Accreditation and Approval – July 1, 2000, through Fall Visits of 2001
- 25.136 Interim Provisions for Continuing Accreditation – Institutions Visited from Spring of 2002 through Spring of 2003
- 25.137 Interim Provisions for Continuing Accreditation and Approval – July 1, 1999, through June 30, 2000 (Repealed)
- 25.140 Transitional Requirements for Unit Assessment Systems
- 25.145 Approval of New Programs Within Recognized Institutions
- 25.147 Approval of Programs for Foreign Language Beginning July 1, 2003
- 25.150 The Periodic Review Process (Repealed)
- 25.155 Initial Recognition Procedures
- 25.160 Notification of Recommendations; Decisions by State Board of Education
- 25.165 Discontinuation of Programs

SUBPART D: SCHOOL SERVICE PERSONNEL

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- 25.200 Relationship Among Credentials in Subpart D
- 25.210 Requirements for the Certification of School Social Workers

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| 25.215 | Certification of School Social Workers (2004) |
| 25.220 | Requirements for the Certification of Guidance Personnel |
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| 25.235 | Certification of School Psychologists (2004) |
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ADMINISTRATIVE AND SUPERVISORY STAFF

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| 25.300 | Relationship Among Credentials in Subpart E |
| 25.310 | Definitions (Repealed) |
| 25.311 | Administrative Certificate (Repealed) |
| 25.313 | Alternative Route to Administrative Certification |
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| 25.320 | Application for Approval of Program (Repealed) |
| 25.322 | General Supervisory Endorsement |
| 25.330 | Standards and Guide for Approved Programs (Repealed) |
| 25.333 | General Administrative Endorsement |
| 25.335 | General Administrative Endorsement (2004) |
| 25.344 | Chief School Business Official Endorsement |
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| 25.415 | Credit in Junior College (Repealed) |
| 25.420 | Psychology Accepted as Professional Education |
| 25.425 | Individuals Prepared in Out-of-State Institutions |
| 25.427 | Three-Year Limitation |

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- 25.430 Institutional Approval (Repealed)
- 25.435 School Service Personnel Certificate – Waiver of Evaluations (Repealed)
- 25.437 Equivalency of General Education Requirements (Repealed)
- 25.440 Master of Arts NCATE (Repealed)
- 25.442 Illinois Teacher Corps Programs
- 25.444 Illinois Teaching Excellence Program
- 25.445 College Credit for High School Mathematics and Language Courses (Repealed)
- 25.450 Lapsed Certificates
- 25.455 Substitute Certificates
- 25.460 Provisional Special and Provisional High School Certificates (Repealed)
- 25.464 Short-Term Authorization for Positions Otherwise Unfilled
- 25.465 Credit (Repealed)
- 25.470 Meaning of Experience on Administrative Certificates (Repealed)
- 25.475 Certificates and Permits No Longer Issued (Repealed)
- 25.480 Credit for Certification Purposes (Repealed)
- 25.485 Provisional Recognition of Institutions (Repealed)
- 25.490 Rules for Certification of Persons Who Have Been Convicted of a Crime
- 25.493 Part-Time Teaching Interns
- 25.495 Approval of Out-of-State Institutions and Programs (Repealed)
- 25.497 Supervisory Endorsements

SUBPART G: THE UTILIZATION OF PARAPROFESSIONALS AND
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- 25.520 Other Noncertificated Personnel
- 25.530 Specialized Instruction by Noncertificated Personnel
- 25.540 Approved Teacher Aide Programs

SUBPART H: CLINICAL EXPERIENCES

- Section
- 25.610 Definitions
- 25.620 Student Teaching
- 25.630 Pay for Student Teaching (Repealed)

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| 25.740 | Accommodation of Persons with Special Needs |
| 25.745 | Special Test Dates |
| 25.750 | Conditions of Testing |
| 25.755 | Voiding of Scores |
| 25.760 | Passing Score |
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| 25.805 | Continuing Professional Development Options |
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| 25.820 | Review of Approved Plan (Repealed) |
| 25.825 | Progress Toward Completion (Repealed) |
| 25.830 | Application for Renewal of Certificate(s) |
| 25.832 | Validity and Renewal of Master Certificates |
| 25.835 | Review of and Recommendation Regarding Application for Renewal |
| 25.840 | Action by State Teacher Certification Board; Appeals |
| 25.845 | Responsibilities of School Districts |
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- 25.870 Continuing Education Units (CEUs)
25.872 Special Provisions for Interactive, Electronically Delivered Continuing Professional Development
25.875 Continuing Professional Development Units (CPDUs)
25.880 "Valid and Exempt" Certificates; Proportionate Reduction; Part-Time Teaching
25.885 Funding; Expenses (Repealed)

SUBPART K: REQUIREMENTS FOR RECEIPT OF
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25.905 Choices Available to Holders of Initial Certificates
25.910 Requirements for Induction and Mentoring
25.915 Requirements for Coursework on the Assessment of One's Own Performance
25.920 Requirements for Coursework Related to the National Board for Professional Teaching Standards (NBPTS)
25.925 Requirements Related to Advanced Degrees and Related Coursework
25.930 Requirements for Continuing Professional Development Units (CPDUs)
25.935 Additional Activities for Which CPDUs May Be Earned
25.940 Examination
25.942 Requirements for Additional Options
25.945 Procedural Requirements
- 25.APPENDIX A Statistical Test Equating – Certification Testing System
25.APPENDIX B Certificates Available Effective February 15, 2000
25.APPENDIX C Exchange of Certificates
25.APPENDIX D Criteria for Identification of Teachers as "Highly Qualified" in Various Circumstances
25.APPENDIX E Endorsement Structure Beginning July 1, 2004

AUTHORITY: Implementing Article 21 and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, 14C-8, and 2-3.6].

SOURCE: Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg. 1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10 Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022,

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effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 11767, effective June 25, 1998; amended at 22 Ill. Reg. 19745, effective October 30, 1998; amended at 23 Ill. Reg. 2843, effective February 26, 1999; amended at 23 Ill. Reg. 7231, effective June 14, 1999; amended at 24 Ill. Reg. 7206, effective May 1, 2000; emergency amendments at 24 Ill. Reg. 9915, effective June 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12930, effective August 14, 2000; preemptory amendment at 24 Ill. Reg. 16109, effective October 12, 2000; preemptory amendment suspended at 25 Ill. Reg. 3718, effective February 21, 2001; preemptory amendment repealed by joint resolution of the General Assembly, effective May 31, 2001; emergency amendments at 25 Ill. Reg. 9360, effective July 1, 2001, for a maximum of 150 days; emergency expired November 27, 2001; emergency amendments at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16031, effective November 28, 2001; amended at 26 Ill. Reg. 348, effective January 1, 2002; amended at 26 Ill. Reg. 11867, effective July 19, 2002; amended at 26 Ill. Reg. 16167, effective October 21, 2002; amended at 27 Ill. Reg. 5744, effective March 21, 2003; amended at 27 Ill. Reg. 8071, effective April 28, 2003; emergency amendments at 27 Ill. Reg. 10482, effective June 26, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 12523, effective July 21, 2003; amended at 27 Ill. Reg. 16412, effective October 20, 2003; emergency amendment at 28 Ill. Reg. 2451, effective January 23, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 8556, effective June 1, 2004; emergency amendments at 28 Ill. Reg. 12438, effective August 20, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1212, effective January 4, 2005; amended at 29 Ill. Reg. 10068, effective June 30, 2005.

SUBPART B: CERTIFICATES

Section 25.11 New Certificates (February 15, 2000)

Section 21-2 of the School Code [105 ILCS 5/21-2] established a new system of teaching certificates effective February 15, 2000. A complete list of the certificates that were available as of that date is found in Appendix B to this Part. The transition to the new system affected certified individuals as set forth in subsection (a) of this Section; under the new system, candidates for certification shall be treated in accordance with the remaining provisions of this Section.

- a) Holders of certain current Illinois teaching certificates shall receive corresponding standard teaching certificates when they next renew any of their current

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certificates.

- 1) Certificates subject to exchange are listed in Appendix C to this Part.
 - 2) No certificate-holder shall be penalized in the exchange of certificates. Each endorsement held by a certificate-holder prior to February 15, 2000, shall be recorded on the appropriate certificate received pursuant to this subsection (a). Qualifications accepted for particular teaching assignments prior to February 15, 2000, shall continue to be acceptable for those assignments, unless Section 25.100(l) of this Part applies.
- b) Out-of-state candidates who qualify for Illinois teaching certificates pursuant to Section 25.425 of this Part and who pass the applicable examinations (see Section 25.720 of this Part) shall receive either initial or standard teaching certificates, and, except as provided in subsection (b)(3) of this Section, those who receive initial certificates shall be subject to the requirements of subsection (d) of this Section in terms of their subsequent receipt of standard teaching certificates. An out-of-state applicant who does not qualify for an initial or standard certificate may qualify to receive a provisional certificate subject to the provisions of Section 21-10 of the School Code [105 ILCS 5/21-10].
- 1) *Standard certificates will be issued to candidates who present evidence of at least four years of teaching experience on a valid certificate issued by a state, territory, or possession of the United States.* (Section 21-2(b-5) of the School Code [105 ILCS 5/21-2(b-5)])
 - 2) Initial certificates will be issued to qualified candidates with fewer than four years of teaching experience.
 - A) A recipient of an initial certificate pursuant to this subsection (b)(2) shall be eligible to apply for a comparable standard certificate when he or she has accumulated a total of four years' teaching experience on a valid certificate, including the time taught outside Illinois.
 - B) Pursuant to Section 21-2(b-5) of the School Code, the 12 semester hours of graduate-level coursework needed to complete the option discussed in Section 25.905(d) of this Part and the 60 continuing professional development units (CPDUs) needed to complete the option discussed in Section 25.905(e) of this Part *shall be reduced*

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in proportion to the amount of teaching time a candidate needs to accumulate in Illinois in order to complete four years of teaching. The number of hours or CPDUs required shall be reduced by one-fourth for each full year of teaching completed outside Illinois.

- 3) *The requirements of Subpart K of this Part shall not apply to an individual who holds a second-tier certificate from another state. (Section 21-2(b-5) of the School Code) A "second-tier certificate" is one that is issued after a teacher has:*
 - A) held a prerequisite teaching certificate that was valid for the same area or areas of assignment, other than an emergency, provisional, or substitute certificate; and
 - B) met specified additional requirements for professional development or induction to the profession of teaching.
- 4) Certificates will be endorsed in accordance with the provisions of Sections 25.100 and 25.425 of this Part.
- c) A candidate completing an approved Illinois teacher preparation program on or after February 15, 2000, may qualify for an initial teaching certificate by passing the applicable examinations as set forth in Section 25.20, 25.30, 25.40, or 25.80 of this Part, or in Section 25.22, 25.32, 25.42, or 25.82 of this Part, as applicable.
- d) An individual who has completed four years of teaching on an initial certificate (or on another certificate that was issued in conjunction with an initial certificate) may qualify for a comparable standard certificate as set forth in Subpart K of this Part.
 - 1) All endorsements shall be carried forward from an initial to the comparable standard certificate.
 - 2) *A holder of an initial certificate who has not completed four years of teaching within four years may renew and register the certificate for additional four-year periods without limitation. (Section 21-14(b) of the School Code [105 ILCS 5/21-14(b)])*
 - 3) A candidate who has taught for four years on an initial certificate but has not met the requirements of Subpart K of this Part may not receive another

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comparable initial teaching certificate. For example, a holder of an initial elementary certificate will not be eligible to receive another initial elementary certificate. *However, such an individual may receive a reinstated certificate, valid for one year, during which he or she may complete the option chosen as a means of qualifying for the standard teaching certificate.* (Section 21-14(b) of the School Code) No initial certificate-holder may receive a reinstated certificate more than once pursuant to this subsection (d)(3).

- 4) When an individual completes four years of teaching experience on an initial certificate, that certificate shall become invalid on the following June 30.
- e) A holder of an Illinois teaching certificate who has teaching experience on a valid certificate as required by Section 21-11.2 of the School Code [105 ILCS 5/21-11.2] may receive an additional certificate of another type as set forth in Section ~~25.3725-35~~ of this Part, unless the additional certificate is to be issued based on comparable out-of-state certification. Once an individual has received a standard teaching certificate, any other subsequently issued early childhood, elementary, secondary, special K-12, or special preschool-age 21 certificate shall also be a standard certificate, with the exception of any master certificate for which the individual also qualifies.
- f) "Four years of teaching experience" means the equivalent of four years' full-time employment, i.e., eight semesters of scheduled full-time teaching, which may, however, be accumulated in any combination of increments. That is, it need not be accumulated through full-time teaching. To permit timely processing of applications for standard certificates, the State Superintendent of Education may accept applications from individuals who are at least midway through their final semester of required teaching experience, provided that each such individual submits a letter that otherwise meets the requirements of subsection (g) of this Section but indicates that:
 - 1) the individual has completed 3½ years of teaching plus the required portion of the final semester; and
 - 2) the representative of the employing entity knows of no reason why the individual will not complete four years of teaching experience during the then-current semester.

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- g) "Evidence of teaching experience" means a letter signed by the chief administrator or other designated official of the employing school district or nonpublic school documenting the nature and duration of the candidate's teaching. A letter signed by an official of the state education agency in another state may be substituted for an employer's letter when the latter cannot be secured. Experience gained while teaching in a home school shall not be applicable to the fulfillment of this requirement.
- h) For purposes of this Section, "valid certificate" means a certificate equivalent to an Illinois master, standard, initial, or provisional early childhood, elementary, secondary, or special certificate.
- i) Upon application, a holder of certification issued by the National Board for Professional Teaching Standards (NBPTS) shall be issued a comparable Illinois master certificate. Endorsements comparable to those held by the individual shall appear on the master certificate. The State Board shall make available the list of NBPTS certifications for which Illinois master credentials are available and shall update that list as the NBPTS expands its areas of certification.

(Source: Amended at 29 Ill. Reg. 10068, effective June 30, 2005)

Section 25.22 Requirements for the Elementary Certificate (2004)

- a) Each applicant shall:
- 1) have completed an approved Illinois teacher preparation program for the elementary certificate, including coursework addressing *the psychology of, the identification of, and the methods of instruction for the exceptional child, including without limitation the learning disabled* (Section 21-2a of the School Code [105 ILCS 5/21-2a]) (see Subpart C of this Part); or
 - 2) have completed a comparable program in another state or country or hold an elementary or comparable certificate issued by another state or country (see Section 25.425 of this Part); or
 - 3) hold a valid certificate of another type issued by Illinois, submit his or her credentials for evaluation under Section 21-11.2 of the School Code [105 ILCS 5/21-11.2], and complete such additional coursework and/or experiences as may be required pursuant to Section 25.37 of this Part.

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- b) Each applicant shall have completed 32 semester hours in elementary education or a major in the field, as identified by the accredited institution on the individual's official transcript.
- c) Each applicant shall have completed pre-student teaching field experiences (see Section 25.610 of this Part). However, applicants with teaching experience at the K-9 level, as verified by the employer, need not complete pre-student teaching clinical experience, except as may be required under Section 25.37 of this Part.
- d) Each applicant shall have completed student teaching in conformance with the requirements of Section 25.620 of this Part. However, applicants presenting the required credit in student teaching and evidence of teaching experience, as verified by the employer, need not complete another student teaching experience, except as may be required under Section 25.37 of this Part.
- e) Each applicant shall be required to pass the tests required for the certificate as specified in ~~Section~~[Sections](#) 25.720 and ~~25.725~~ of this Part.
- f) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code [105 ILCS 5/21-10].
- g) The requirements of this Section shall not apply to an elementary certificate that is issued along with a secondary certificate in place of a special certificate as provided in Appendix C to this Part.

(Source: Amended at 29 Ill. Reg. 10068, effective June 30, 2005)

Section 25.32 Requirements for the Secondary Certificate (2004)

- a) Each applicant shall:
 - 1) have completed an approved Illinois teacher preparation program for the secondary certificate, including coursework addressing *the psychology of, the identification of, and the methods of instruction for the exceptional child, including without limitation the learning disabled* (Section 21-2a of the School Code) (see Subpart C of this Part); or
 - 2) have completed a comparable program in another state or country or hold a secondary or comparable certificate issued by another state or country (see Section 25.425 of this Part); or

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- 3) hold a valid certificate of another type issued by Illinois, submit his or her credentials for evaluation under Section 21-11.2 of the School Code, and complete such additional coursework and/or experiences as may be required pursuant to Section 25.37 of this Part.
- b) Each applicant shall have completed pre-student teaching field experiences (see Section 25.610 of this Part). However, applicants with teaching experience at the 6-12 level, as verified by the employer, need not complete pre-student teaching field experience, except as may be required under Section 25.37 of this Part.
- c) Each applicant shall have completed student teaching in conformance with the requirements of Section 25.620 of this Part. However, applicants presenting the required credit in student teaching and evidence of teaching experience, as verified by the employer, need not complete another student teaching experience, except as may be required under Section 25.37 of this Part.
- d) A total of 32 semester hours in an area of specialization, or a major as identified by the accredited institution on the individual's official transcript, shall be required.
- e) Each applicant shall be required to pass the tests required for the certificate as specified in ~~Section~~[Sections 25.720 and 25.725](#) of this Part.
- f) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.
- g) The requirements of this Section shall not apply to a secondary certificate that is issued along with an elementary certificate in place of a special certificate as provided in Appendix C to this Part.

(Source: Amended at 29 Ill. Reg. 10068, effective June 30, 2005)

Section 25.42 Requirements for the Special Certificate (2004)

- a) Each applicant shall:
 - 1) have completed an approved Illinois teacher preparation program for the special certificate, including coursework addressing *the psychology of, the identification of, and the methods of instruction for the exceptional child,*

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including without limitation the learning disabled (Section 21-2a of the School Code) (see Subpart C of this Part); or

- 2) have completed a comparable program in another state or country or hold a special or comparable certificate issued by another state or country (see Section 25.425 of this Part); or
 - 3) hold a valid certificate of another type issued by Illinois, submit his or her credentials for evaluation under Section 21-11.2 of the School Code, and complete such additional coursework and/or experiences as may be required pursuant to Section 25.37 of this Part.
- b) Each applicant shall have completed pre-student teaching field experiences (see Section 25.610 of this Part). However, applicants with teaching experience in the field of specialization, as verified by the employer, need not complete pre-student teaching field experience, except as may be required under Section 25.37 of this Part.
 - c) Each applicant shall have completed student teaching in conformance with the requirements of Section 25.620 of this Part. However, applicants presenting the required credit in student teaching and evidence of teaching experience, as verified by the employer, need not complete another student teaching experience, except as may be required under Section 25.37 of this Part.
 - d) A total of 32 semester hours in an area of specialization, or a major as identified by the accredited institution on the individual's official transcript, shall be required.
 - e) Each applicant shall be required to pass the tests required for the certificate as specified in ~~Section~~[Sections](#) 25.720 and ~~25.725~~ of this Part.
 - f) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 29 Ill. Reg. 10068, effective June 30, 2005)

Section 25.82 Requirements for the Early Childhood Certificate (2004)

- a) Each applicant shall:

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- 1) have completed an approved Illinois teacher preparation program for the early childhood certificate, including coursework addressing *the psychology of, the identification of, and the methods of instruction for the exceptional child, including without limitation the learning disabled* (Section 21-2a of the School Code) (see Subpart C of this Part); or
 - 2) have completed a comparable program in another state or country or hold an early childhood or comparable certificate issued by another state or country (see Section 25.425 of this Part); or
 - 3) hold a valid certificate of another type issued by Illinois, submit his or her credentials for evaluation under Section 21-11.2 of the School Code, and complete such additional coursework and/or experiences as may be required pursuant to Section 25.37 of this Part.
- b) Each applicant shall have completed pre-student teaching field experiences (see Section 25.610 of this Part). However, applicants with teaching experience at the PreK-3 level, as verified by the employer, need not complete pre-student teaching field experience, except as may be required under Section 25.37 of this Part.
 - c) Each applicant shall have completed student teaching in conformance with the requirements of Section 25.620 of this Part. However, applicants presenting the required credit in student teaching and evidence of teaching experience, as verified by the employer, need not complete another student teaching experience, except as may be required under Section 25.37 of this Part.
 - d) Each applicant shall have completed 32 semester hours in early childhood education or a major in the field, as identified by the accredited institution on the individual's official transcript.
 - e) Each applicant shall be required to pass the tests required for the certificate as specified in ~~Section~~[Sections 25.720 and 25.725](#) of this Part.
 - f) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 29 Ill. Reg. 10068, effective June 30, 2005)

Section 25.100 Endorsing Teaching Certificates (2004)

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Beginning July 1, 2004, the structure of endorsements available on Illinois certificates will be changed. Appendix E to this Part provides a list of the endorsements that will become available at that time, other than the endorsements in special education that are the subject of federal court orders of February 27 and August 15, 2001, in the matter of Corey H., et al., v. Board of Education of the City of Chicago, et al. Appendix E shows for each new endorsement the related endorsements that were previously issued and will be discontinued or replaced. Any semester hours of credit presented toward fulfillment of the requirements of this Section may be earned in on-line or electronically-mediated courses, provided that college credit is awarded for the coursework by a regionally accredited institution of higher education.

- a) Subject-area "designations" shall be required in conjunction with some endorsements, as shown in Appendix E to this Part. Except in the case of foreign language, a certificate-holder shall be authorized to teach all the subjects encompassed by a particular endorsement, regardless of the designation or designations received in conjunction with that endorsement. However, a certificate-holder may not teach honors courses, as these are defined by the employing district, or Advanced Placement courses in a subject for which he or she does not hold the specific designation, unless he or she holds an applicable master certificate. For example, a secondary science teacher with a biology designation may not teach honors physics or chemistry unless he or she holds a master certificate endorsed for sciences.
- b) Endorsement(s) at Time of Issuance
Pursuant to Section 21-1b of the School Code [105 ILCS 5/21-1b], *all certificates initially issued under this Article...shall be specifically endorsed by the State Board of Education for each subject the holder of the certificate is legally qualified to teach.*
 - 1) For each application for certification received on or before September 30, 2004, the certificate issued shall be endorsed in keeping with the program completed and the related test passed by the candidate, as well as for any additional subject in which the candidate completed the required coursework.
 - 2) For each application received on or after October 1, 2004, the certificate issued shall be endorsed in keeping with the program completed and the related content-area test or test of subject matter knowledge passed by the candidate and, except as provided in subsections (g), (h), (i), (j), ~~and (k)~~, and (m) of this Section:

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- A) any additional area in which the individual has completed a major area of concentration, totaling 32 semester hours or as otherwise identified by a regionally accredited institution on the individual's official transcript; and
 - B) any additional area in which the individual presents evidence of having accumulated 24 semester hours of college credit demonstrably related to the subject area, either as a subset of an approved program at an Illinois institution or from one or more regionally accredited institutions of higher education, and has passed the applicable content-area test (or test of subject matter knowledge); and
 - C) any additional area for which the individual has met the applicable requirements of subsection (e) of this Section.
- 3) An individual who passes a test of subject matter knowledge prior to July 1, 2004, and applies for the related certificate no later than five years after the date on which the test was taken shall receive an endorsement valid only for the specific subjects covered under the prior system, unless the institution that offered the program completed by the candidate certifies to the State Board of Education that the candidate completed a program that met the applicable standards set forth at 23 Ill. Adm. Code 27 (Standards for Certification in Specific Teaching Fields). An endorsement under the new structure will be issued to an individual who either passes the applicable new content-area test or completes a program based upon the applicable standards for the content area.
- 4) To account for the differing stages of preparation attained by candidates who were already enrolled in approved programs as of July 1, 2004, each institution may, through June 30, 2006, recommend to the State Board of Education the issuance of one or more endorsements under the structure in effect prior to July 1, 2004, to a candidate who has completed the coursework required for those endorsements and, in the judgment of the institution's certification officer, did not have a sufficient opportunity to complete the requirements for the comparable new endorsements instead.
- c) Pursuant to Section 21-4 of the School Code [105 ILCS 5/21-4], an individual who is eligible to receive a special certificate may elect to receive both an elementary and a secondary certificate, each endorsed as the special or special

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preschool-age 21 certificate would have been endorsed. An individual who elects to hold a special certificate may add endorsements to it by submitting an application pursuant to Section 21-12 of the School Code and demonstrating that he or she has met the applicable requirements of subsection (f)(3) of this Section.

- d) Endorsements issued under the system used prior to July 1, 2004, shall continue to be valid only for the specific subjects covered. An individual who wishes to teach other subjects in the same field shall be required to apply for the relevant new endorsement in keeping with Section 21-12 of the School Code and meet the applicable requirements of this Section.
- e) Each endorsement or designation indicated by an asterisk in Appendix E to this Part has no corresponding content-area test. The provisions of this subsection (e) shall apply to the issuance of these endorsements and designations.
 - 1) For an applicant who is receiving an Illinois teaching certificate, the institution that offered the approved program completed by the applicant shall indicate that the applicant has met the standards applicable to the endorsement or the particular designation.
 - 2) An applicant prepared out of state, or an applicant who is already certified in Illinois and is seeking to add a new endorsement or designation in one of these subjects, other than an endorsement in safety and driver education, shall:
 - A) present verification from an institution with an approved teacher preparation program that he or she is prepared in the area covered by the endorsement or designation sought; or
 - B) present evidence of completion of nine semester hours of coursework in the area covered by the endorsement or designation sought; or
 - C) present evidence of at least one year's teaching experience on a valid certificate in the area covered by the endorsement or designation sought.
 - 3) An applicant prepared out of state or an applicant who is already certified in Illinois and is seeking to add a new endorsement in safety and driver

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education shall be subject to the requirements set forth at 23 Ill. Adm. Code 1.730(q).

- f) Addition of Endorsements to Previously Issued Certificates
Individuals seeking to endorse previously issued certificates shall apply for such endorsements, using a format specified by the State Board of Education, in accordance with the provisions of Section 21-12 of the School Code [105 ILCS 5/21-12].
- 1) An applicant who qualifies for an endorsement shall receive a new copy of the original certificate with the endorsement and date of the endorsement affixed.
 - 2) Applications received through June 30, 2005, shall, at the request of the applicant, be reviewed against the requirements in place immediately prior to July 1, 2004, and deficiency statements shall be issued when an applicant does not qualify for the requested endorsements. Each deficiency statement shall be honored by the State Board of Education for a period of one year from the date of issue, except in the case of reading as provided in subsection (i)(1)(C) of this Section. Applicants will receive the endorsements only if they remove the identified deficiencies within one year after the date of the deficiency statement. Subsequent applications for the same endorsements shall be accompanied by another fee and shall be subject to any new requirements.
 - 3) Except as provided in subsections (g), (h), (i), (j), ~~and (k)~~, and (m) of this Section, for applications received on or after July 1, 2005, an endorsement will be issued to each applicant who:
 - A) has completed a major area of concentration, totaling 32 semester hours or as otherwise identified by a regionally accredited institution on the individual's official transcript; or
 - B) presents evidence of having accumulated 24 semester hours of college credit demonstrably related to the subject area, either as a subset of an approved program at an Illinois institution or from one or more regionally accredited institutions of higher education, and has passed the applicable content-area test (or test of subject matter knowledge); or

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- C) has met the applicable requirements of subsection (e) of this Section.
- g) Special provisions shall apply to the addition of endorsements in self-contained general education. An individual who holds a secondary, special K-12, or special preschool-age 21 certificate, or an individual who holds an elementary certificate endorsed in some other field by virtue of having "split" a special or special preschool-age 21 certificate, may qualify for the endorsement in self-contained general education on that certificate only by completing an approved program for the elementary certificate in accordance with Section 25.37 of this Part and passing the elementary/middle grades test. Fulfillment of these requirements qualifies the individual for an elementary certificate with this endorsement. However, an individual with an early childhood or a secondary certificate may choose whether to receive the elementary certificate or to add the endorsement to his or her existing certificate, thereby restricting his or her capacity for assignment to the grade levels encompassed by that certificate. An individual who elects to receive a separate certificate pursuant to this subsection (g) shall be required to pass the test of basic skills and/or the applicable assessment of professional teaching if passage of one or both of these tests would be required for receipt of a subsequent standard certificate as explained in Section 25.720 of this Part.
- h) Special provisions shall apply to the issuance of endorsements in the sciences and social sciences.
- 1) An individual seeking to add an endorsement and a designation in either of these fields who does not already hold that endorsement with one of its other available designations shall be required to pass the content-area test for the designation sought and either:
- A) be recommended for the endorsement and the designation by an institution with an approved program in the subject area based on having completed coursework sufficient to address the applicable content-area standards; or
- B) present evidence of having accumulated 32 semester hours of college coursework in the field, from one or more regionally accredited institutions, that meets the following requirements:

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- i) at least 12 semester hours of credit must have been earned in the subject area of the designation sought; and
 - ii) some portion of the coursework completed must have addressed at least two additional designations within the field.
 - 2) The requirement stated in subsection (h)(1) of this Section shall apply whenever an individual seeks to add his or her first endorsement in one of these fields.
 - 3) An individual may receive a subsequent designation in the same field if he or she has:
 - A) passed the applicable content-area test; or
 - B) completed a major in the content area of the designation.
 - 4) An individual who holds an endorsement in the sciences or social sciences under the structure that was in effect prior to July 1, 2004, may receive an endorsement and a designation in that field under the new structure by passing the content-area test for the designation sought. He or she may then qualify for additional designations in the field pursuant to subsection (h)(3) of this Section.
- i) Special provisions shall apply to the issuance of endorsements for reading teachers and reading specialists. A reading teacher is one whose assignment involves teaching reading to students, while a reading specialist is one whose assignment involves the provision of technical assistance and/or professional development to other teachers and may also include teaching reading to students.
 - 1) Reading Teacher
This endorsement shall not be issued as an individual's first teaching credential. An individual who holds or receives an Illinois early childhood, elementary, secondary, or special certificate shall be eligible to receive this additional endorsement on that certificate (and on any other certificate held or subsequently earned) when he or she presents evidence of:
 - A) having passed the applicable content-area test (or test of subject matter knowledge) and having been recommended for the

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endorsement by virtue of completing an approved reading teacher's preparation program based on the standards set forth at 23 Ill. Adm. Code 27.110 that requires at least 24 semester hours of graduate or undergraduate coursework in reading, including a practicum, at an institution that is recognized to offer teacher preparation programs in Illinois; or

- B) having passed the applicable content-area test (or test of subject matter knowledge) and having completed 24 semester hours of graduate or undergraduate coursework in reading, including a practicum, at one or more regionally accredited institutions of higher education, provided that all the following areas were addressed:
- i) foundations of reading,
 - ii) content-area reading,
 - iii) assessment and diagnosis of reading problems,
 - iv) developmental and remedial reading instruction and support,
 - v) developmental and remedial materials and resources, and
 - vi) literature appropriate to students across all grade ranges; or
- C) having completed, on or before June 30, 2005, the 18 semester hours of college coursework in reading described at 23 Ill. Adm. Code 1.740(a), in which case passage of the content-area test or test of subject matter knowledge shall not be required and no deficiency statement shall extend the timeline for completion of the coursework beyond June 30, 2005.
- 2) Reading Specialist
The reading specialist's endorsement shall require two years of teaching experience. An individual who holds an Illinois early childhood, elementary, secondary, or special certificate shall be eligible to receive this endorsement on that certificate or on a separate special K-12 certificate

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when he or she presents evidence of having completed the required teaching experience and:

- A) having completed a K-12 reading specialist's program approved pursuant to Subpart C of this Part that includes a practicum and leads to the issuance of a master's or higher degree; and
 - B) having been recommended for the endorsement by the institution offering the program; and
 - C) having passed the content-area test for reading specialist.
- 3) An individual who elects to receive a separate special K-12 certificate pursuant to subsection (i)(2) of this Section shall be required to pass the test of basic skills and/or the applicable assessment of professional teaching if passage of one or both of these tests would be required for receipt of a subsequent certificate as explained in Section 25.720 of this Part.
- j) Special provisions shall apply to the addition of endorsements and designations in foreign languages.
- 1) An endorsement and a designation for a foreign language may be added to an existing certificate when an individual has completed a major area of concentration in the language, totaling 32 semester hours or as otherwise identified by a regionally accredited institution on the individual's official transcript.
 - 2) An endorsement and a designation for a foreign language may be added to an existing certificate when an individual presents evidence of having accumulated 20 semester hours of college credit in the language, either as a subset of an approved program at an Illinois institution or from one or more regionally accredited institutions of higher education, and has passed the applicable content-area test (or test of subject matter knowledge). The 20 semester hours may be calculated by including semester hours of study that were waived by the institution offering the coursework based on the individual's prior learning, provided that the individual presents verification issued by the institution to this effect (i.e., a statement on the official transcript or a letter signed by the certification officer identifying the number of hours involved).

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- 3) Each additional designation for a foreign language shall be subject to the requirements of this subsection (j).
- 4) Sections 25.85 and 25.86 of this Part set forth additional provisions for certification in foreign languages under specified circumstances.
- k) The requirements of 23 Ill. Adm. Code 1.720 (Requirements for Teachers of Middle Grades), rather than the requirements of this Section, shall apply to credentials and assignments in the middle grades, including reading assignments in the middle grades. The requirements of 23 Ill. Adm. Code 1.780, 1.781, and 1.782, rather than the requirements of this Section, shall apply to credentials and assignments in the areas of bilingual education and English as a Second (New) Language.
- l) Each individual who is first assigned to teach a particular subject on or after July 1, 2004, based on completion of the minimum requirements for college coursework in that subject that are set forth at 23 Ill. Adm. Code 1.737(b), 1.745(b)(3), or 1.755(c), as applicable, but who has not met the requirements of this Section for an endorsement in that subject area shall have three years after the date of first assignment to meet those requirements and receive the relevant endorsement. An individual who does not do so shall become ineligible to teach the subject in question in any subsequent semester, unless he or she later receives the endorsement.
- m) An additional endorsement for "technology specialist" shall be issued only upon presentation of evidence that the applicant has completed at least 24 semester hours of college coursework demonstrably related to the subject area at one or more regionally accredited institutions of higher education and has passed the relevant content-area test.

(Source: Amended at 29 Ill. Reg. 10068, effective June 30, 2005)

SUBPART C: APPROVING PROGRAMS THAT PREPARE PROFESSIONAL
EDUCATORS IN THE STATE OF ILLINOIS

**Section 25.115 Recognition of Institutions, Accreditation of Educational Units, and
Approval of Programs**

In order for an Illinois institution of higher education to offer one or more programs that prepare

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professional educators, that institution must be recognized, and the educational unit responsible for such program(s) must be accredited, by the State Board of Education in consultation with the State Teacher Certification Board. "Educational unit" means the institution or college, school, department, or other administrative body within the institution that is primarily responsible for the initial and continuing preparation of teachers and other education professionals. Each program that is offered by a recognized institution~~Specific preparation programs offered by recognized institutions~~ must also be individually approved by the State Board of Education in consultation with the State Teacher Certification Board. "Program" or "preparation program" means a program that leads to certification. When authorized by the State Superintendent, written materials required pursuant to this Subpart C may be submitted in electronic form.

- a) An institution shall be recognized if it:
 - 1) is approved as a degree-granting institution by the Illinois Board of Higher Education, if the institution is subject to provisions of the Institution of Learning Powers Act [110 ILCS 50];
 - 2) sponsors a course of study leading to an appropriate baccalaureate or higher degree and awards the degree; and
 - 3) conducts or proposes to conduct at least one approved program that will prepare professional educators.
- b) An educational unit shall be accredited if the institution meets the standards enumerated in "Professional Standards for the Accreditation of Schools, Colleges, and Departments of Education" (2002), published by the National Council for the Accreditation of Teacher Education (NCATE), 2010 Massachusetts Avenue, N.W., Suite 500, Washington, D.C. 20036-1023 (no later amendments to or editions of these standards are incorporated by this Section).
- c) A preparation program shall be approved if it meets the applicable content standards established by the State Board of Education and the standards set forth at 23 Ill. Adm. Code 24 (Standards for All Illinois Teachers) or 23 Ill. Adm. Code 29.100 (Illinois Professional School Leader Standards), as applicable, except as provided in Section 25.135 of this Part.
- d) The accreditation of an educational unit and the approval of its programs shall be subject to review every five years until completion of its first review in light of the standards incorporated by subsection (b) of this Section. Accreditation Review shall be conducted as provided in Sections 25.125 and 25.127 of this Part

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and decisions regarding continued accreditation and approval shall be made as provided in those Sections, except as provided in Section 25.130, 25.135, or 25.136 of this Part. Once an institution has completed an Accreditation Review under the standards referenced in subsection (b) of this Section and fulfilled any requirements imposed under Section 25.125(j) of this Part, its Accreditation Reviews shall be scheduled at seven-year intervals.

- e) Each accredited educational unit shall annually submit to the State Superintendent of Education, in a format defined by the State Superintendent and according to a timeline announced at least six months in advance:
 - 1) a report that describes any significant changes in the unit or its program(s), updates any information previously provided as needed, and provides other information requested by the State Superintendent of Education;
 - 2) as relevant to the institution, a report on all programs provided by the institution that have been approved as an alternate route to certification under Section 25.67 of this Part; and
 - 3) institutional data that describe the results of unit and program assessments and the actions taken or planned to address identified areas of concern.
- f) If relevant to the institution, the report required under subsection (e) of this Section shall include a description of how the unit has addressed any applicable standard(s) identified during the most recent review of the unit and its programs as "not met" or "met with areas for improvement". However, for institutions that have been assigned "Continuing Accreditation with Conditions" or "Probation", this description shall not be required in those years in which the institution is required to submit a special report or is subject to a focused or full visit as discussed in Section 25.127 of this Part.
- g) No later than April 7 of each year, each institution shall report to the State Board of Education, using a form supplied by the Board, on its program completers' pass rates on the examinations required for initial certification pursuant to this Part and other information required by Title II of the Higher Education Act [20 USCA 1027]. Further, each institution shall make this information readily available to the public on an annual basis and shall include it in or with publications routinely sent to potential applicants, guidance counselors, and prospective employers of the institution's program completers.

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(Source: Amended at 29 Ill. Reg. 10068, effective June 30, 2005)

Section 25.125 Accreditation Review of the Educational Unit

The requirements of this Section shall apply to Accreditation Reviews that take place on or after July 1, 2003. The review visits conducted pursuant to this Section shall occur between March 1 and May 31 and between September 1 and November 30 and shall be scheduled for the mutual convenience of the affected institution and the review team.

- a) No later than February 1 (for a spring review) or September 1 (for a fall review) of the year before the year when its Accreditation Review will be held, the institution shall submit to the State Superintendent of Education five copies of each of the two reports specified in this subsection (a). However, in the case of an institution that is also seeking initial accreditation from NCATE, these reports shall be submitted six months earlier than otherwise required by this subsection (a).
 - 1) The institution shall submit a report providing an overview of the unit's conceptual framework(s), which shall include a description of each framework, its development, and any changes that have been made since the institution's previous Accreditation Review. The discussion of the framework(s) shall address each of the "structural elements" found in the standards referred to in Section 25.115(b) of this Part.
 - 2) The institution shall submit a composite report describing how the unit's teacher preparation programs address the standards set forth at 23 Ill. Adm. Code 24 (Standards for All Illinois Teachers) and how the unit's preparation programs for school administrators address the Illinois Professional School Leader Standards set forth at 23 Ill. Adm. Code 29.100 (see Standards for Administrative Certification).
- b) A panel established by the State Superintendent shall review the overview of the unit's conceptual framework(s) no more than 30 days after the overview is submitted. No later than 30 days after the panel completes its review, the State Board of Education shall notify the institution either that the description of its conceptual framework(s) is adequate or that certain structural elements were not adequately addressed and will undergo additional scrutiny by the review team during the visit described in subsection (e) of this Section.

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- c) No later than 60 days before its review visit, the institution shall submit to the State Superintendent the number of copies specified in light of the review team's size, and to NCATE (if applicable) the number of copies required by NCATE, of a report presented in a format prescribed by the State Board of Education and incorporating:
- 1) an overview of the institution;
 - 2) an overview of the unit's conceptual framework(s);
 - 3) evidence that it is meeting each of the standards referred to in Section 25.115(b) of this Part; and
 - 4) evidence that it is meeting the standards established by the State Board of Education (see 23 Ill. Adm. Code 24, Standards for All Illinois Teachers, and 23 Ill. Adm. Code 29, Standards for Administrative Certification, as applicable).
- d) A review team shall be empanelled to conduct an on-site review to verify the information provided by the institution as required by subsection (c) of this Section. The review team shall be constituted as provided in subsection (d)(1) or (d)(2) of this Section, depending upon whether the institution is also seeking to achieve or retain accreditation of its educational unit by NCATE.
- 1) **Institutions Seeking State Accreditation Only**
From a pool of individuals who have been trained in the applicable standards and procedures, the State Superintendent shall empanel a team to conduct the on-site review and shall appoint the team's chair. A staff member of the State Board of Education or another individual designated by the State Superintendent who has been trained in the applicable standards and procedures shall accompany the review team, serving as a consultant ~~serve as a consultant~~ to ensure that applicable standards, procedures, rules, and statutes are addressed.
 - 2) **Institutions Also Seeking to Achieve or Retain NCATE Accreditation**
~~From a pool of individuals who have been trained in the applicable standards and procedures, the State Superintendent shall select members to serve on a joint review team with representatives of NCATE's Board of Examiners to conduct the on-site review. The review team shall be co-chaired by a member appointed by the State Superintendent and a member~~

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~~of NCATE's Board of Examiners.~~ A staff member of the State Board of Education or another individual designated by the State Superintendent who has been trained in the applicable standards and procedures shall accompany the review team appointed by NCATE's Board of Examiners, serving as a consultant to~~serve as a consultant to~~ ensure that applicable Illinois standards, procedures, rules, and statutes are addressed.

- e) The review team shall visit the institution and verify the degree to which the educational unit and its programs meet the standards referred to in Section 25.115(b) of this Part.
- f) The review team shall prepare a draft report during the on-site visit, incorporating an overview of the unit and its conceptual framework(s), summarizing data on the performance of candidates and graduates, and taking into account the recommendations arising from the review of program reports as outlined in Section 25.127 of this Part. This draft report shall be provided to the institution within 30 business days after the conclusion of the visit for the purpose of allowing the institution 30 days to correct any factual errors. The team chair~~or co-chairs~~ shall review the institution's suggested revisions and make appropriate corrections in consultation with the State Board staff member who is serving pursuant to subsection (d) of this Section. The final report shall be submitted to the institution within 30 days after the State Board's receipt of the institution's suggested corrections.
- g) Within 30 days after receipt of the final report, the institution shall submit to the State Superintendent either a letter stating agreement with the report's findings or a rejoinder to those findings that meets the following requirements:
 - 1) The rejoinder must indicate the grounds for disagreement with one or more of the team's findings and include documentation to support the institution's position.
 - 2) All documentation must describe conditions that existed at the time of the on-site review. (Changes made by the unit after the visit will not be considered.)
 - 3) All documentation must relate directly to the standards and procedures that applied at the time of the on-site visit.
- h) Staff of the State Board of Education shall convey to the State Teacher

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Certification Board the institutional report, the review team's report, the institution's letter of agreement or rejoinder, a response to that rejoinder provided by the team's chair~~or co-chairs~~, and the results of the review of the program report(s), as well as any other relevant documentation that was available to the review team.

- i) After consideration of the information submitted pursuant to subsection (h) of this Section, the Certification Board shall convey to the State Board of Education a recommendation regarding the accreditation of the educational unit as appropriate to the circumstances, in keeping with the provisions of subsection (j) of this Section. The Certification Board shall also convey recommendations regarding approval of the unit's individual programs (see Section 25.127 of this Part).
- j) The possible outcomes of Accreditation Review shall align with those used in the NCATE system of review, so that Illinois institutions desiring both national accreditation through NCATE and the State recognition, accreditation, and program approval required pursuant to this Subpart C will not be caused to duplicate their efforts or undergo duplicate reviews.
 - 1) If the educational unit has met all the applicable standards, the State Teacher Certification Board shall recommend that the State Board of Education continue the accreditation of the educational unit (which may include the identification of areas for improvement), thereby authorizing the institution to conduct its approved program(s) and to recommend candidates for certification by entitlement.
 - 2) If the educational unit has failed to meet one or more of the applicable standards, the State Teacher Certification Board shall recommend that the State Board of Education assign accreditation of the educational unit with conditions, thereby authorizing the institution to conduct its approved program(s) and to recommend candidates for certification by entitlement. An institution to which accreditation with conditions has been assigned shall, within 30 days after receipt of the State Board's decision, provide written notification to the candidates enrolled in the unit's programs to this effect.
 - A) If the State Teacher Certification Board believes that the unit can make adjustments so as to satisfy the conditions expressed within six months, the Board shall recommend that the State Board of Education request submission of documentation that addresses the

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unmet standard(s) as well as any other areas for improvement within that time. However, the affected unit may choose to undergo a focused visit pursuant to subsections (j)(2)(C) and (D) of this Section instead.

- B) If documentation is submitted pursuant to subsection (j)(2)(A) of this Section, the State Board of Education shall either continue the institution's accreditation, if the conditions expressed have been satisfied, or require a focused visit addressing the unmet standard(s) and any additional area(s) for improvement, which shall occur within one year after the semester in which the documentation was submitted.
 - C) If the State Teacher Certification Board believes that the conditions expressed cannot be satisfied within six months, the Board shall recommend that the State Board of Education require a focused visit addressing the unmet standard(s) and any additional area(s) for improvement within two years after the semester when the conditions were issued.
 - D) Each focused visit shall be conducted by a team established by the State Superintendent of Education and trained in the review process. The team conducting a focused visit shall forward to the State Teacher Certification Board a report indicating whether the conditions expressed have been satisfied.
 - E) After reviewing the team's report, the State Teacher Certification Board shall recommend that the State Board of Education continue or revoke the unit's accreditation.
 - F) A unit to which continued accreditation is granted as a result of a six-month report or a focused visit shall next be due for Accreditation Review according to its original schedule (see Section 25.115(d) of this Part).
- 3) If the educational unit has failed to meet one or more of the applicable standards and exhibits areas for improvement that may limit its candidates' ability to meet the standards for certification, the State Teacher Certification Board shall recommend that the State Board of Education assign accreditation of the educational unit with probation. An institution

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to which accreditation with probation has been assigned shall, within 30 days after receipt of the State Board's decision, provide written notification to the candidates enrolled in the unit's programs to this effect. If accreditation with probation is assigned, the unit must schedule an on-site visit within two years after the semester in which the decision was rendered. As part of this visit, the unit must address all the standards in effect at the time of the review that resulted in probation.

- A) An on-site review required pursuant to this subsection (j)(3) shall be subject to the requirements of subsections (a) through (g) of this Section.
 - B) Following the on-site review, the State Teacher Certification Board shall review the team's report and, based on its assessment of the degree to which the unit has achieved compliance with the applicable standards, shall recommend to the State Board of Education that it either continue or revoke the institution's recognition and the educational unit's accreditation.
 - C) A unit whose accreditation has been continued pursuant to this subsection (j)(3) shall next be subject to Accreditation Review according to its original schedule (see Section 25.115(d) of this Part).
- k) The provisions of subsection (j) of this Section notwithstanding, an institution not accredited by NCATE may decide to seek NCATE accreditation at any time, thus becoming subject to NCATE's initial review cycle. (If NCATE accreditation is sought other than in conjunction with a scheduled Accreditation Review, an Accreditation Review shall be conducted as described in this Section, and the schedule for subsequent Accreditation Reviews shall be altered accordingly.)
- l) Actions following upon the recommendation of the State Teacher Certification Board shall be as described in Section 25.160 of this Part. Revocation of recognition and accreditation shall be subject to the provisions of Section 25.165(b) of this Part.
- m) If NCATE requires a focused visit and the State Board of Education does not, a State Board staff member shall serve as a non-voting observer during the on-site review and report to the State Teacher Certification Board and the State Board of Education as appropriate.

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(Source: Amended at 29 Ill. Reg. 10068, effective June 30, 2005)

Section 25.160 Notification of Recommendations; Decisions by State Board of Education

- a) The State Superintendent of Education shall notify an affected institution in writing not later than 30 days after receipt of a recommendation from the State Teacher Certification Board pursuant to the provisions of this Subpart C and except as provided in this subsection (a), shall await the institution's response (see subsection (b) of this Section) prior to forwarding that recommendation to the State Board of Education. The State Superintendent shall not await a response from an institution if, as applicable to the nature of the review:
- 1) the State Teacher Certification Board has recommended the initial recognition of the institution, the accreditation of its educational unit, and the approval of all of its proposed programs under Section 25.155(l)(1) of this Part; or
 - 2) the State Teacher Certification Board has recommended continuing the accreditation of the educational unit under Section 25.125(j)(1) of this Part and the approval of all the unit's existing preparation programs under Section 25.127(o)(1) of this Part; or
 - 3) the State Teacher Certification Board has recommended provisional approval of each proposed new preparation program under Section 25.145(d)(1) of this Part.
- b) Within 30 days after receipt of written notification from the State Superintendent, an affected institution may submit a notice of objection to the Certification Board's recommendation, provided that: ~~1) the institution's narrative explanation of its objection(s) and any supporting documentation shall be submitted to the State Superintendent not later than 30 days after the institution submits its notice of objection; and 2) the State Teacher Certification Board has recommended anything other than unconditional accreditation of the unit and approval of the affected preparation program(s).~~
- c) The State Superintendent shall forward to the State Board of Education for consideration at its next available meeting the recommendation made by the State Teacher Certification Board and the institution's presentation of its objection(s) and shall inform the Certification Board that these materials have been submitted

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for the State Board's consideration.

- d) No more than 30 days after the State Board of Education makes its decision, the State Superintendent shall notify the institution in writing of the State Board's action.

(Source: Amended at 29 Ill. Reg. 10068, effective June 30, 2005)

SUBPART D: SCHOOL SERVICE PERSONNEL

Section 25.235 Certification of School Psychologists (2004)

- a) Each candidate for the school service personnel certificate endorsed for school psychology shall hold a master's degree in psychology or educational psychology with a specialization in school psychology.
- b) ~~Each~~ Except as provided in subsection (d) of this Section, each candidate shall have completed an Illinois program approved for the preparation of school psychologists pursuant to Subpart C of this Part and accredited by the National Association of School Psychologists or a comparable approved program in another state or country or hold a comparable certificate issued by another state or country (see Section 25.425 of this Part).
- c) Each candidate shall have completed both a supervised field experience of at least 250 hours in a school setting and/or child study center and an internship of at least 1200 contact hours and lasting a full school year under the direction of an intern supervisor.
- d) ~~An applicant who has completed a program in another state that is not accredited by the National Association of School Psychologists shall be required to enroll in an approved school psychology preparation program. The Illinois institution offering the program shall review the individual's educational background and identify any of the standards set forth at 23 Ill. Adm. Code 23.130 that the individual's preparation has not addressed. Upon successful completion of the coursework offered by the institution that addresses the identified standards, the applicant shall be eligible to be recommended for certification by entitleme~~ e) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills, subject to the provisions of Section 25.720 if its passage would be required for receipt of a

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~~standard certificate pursuant to Section 25.720(a)~~ of this Part. (See also 23 Ill. Adm. Code 23.130.)

- e)f) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 29 Ill. Reg. 10068, effective June 30, 2005)

SUBPART F: GENERAL PROVISIONS

Section 25.450 Lapsed Certificates

- a) A lapsed certificate, one that has not been registered or renewed for a period of five or more years since expiration of its last registration, shall be reinstated for a one-year period upon payment of all accumulated registration fees.
- b) The Regional Superintendent shall notify the holder of a reinstated certificate of:
- 1) The specific time of reinstatement, including beginning and ending dates.
 - 2) The requirement that in order to renew the certificate at the end of the period of reinstatement, during the time of reinstatement, the certificate holder ~~in order to renew the certificate at the end of reinstatement~~ must:
 - A) Have earned, within the six-year period that encompasses the certification year of reinstatement and the five-year period immediately prior to the year of reinstatement, Earn five semester hours of college credit from one or more regionally accredited institutions in a recognized institution of higher learning in the field of professional education or in courses related to the holder's contractual teaching duties, or
 - B) Present evidence of holding a valid regular certificate of some other type, whether issued by Illinois or by another state, territory, or possession of the U.S.
- c) As a reinstated certificate is a reissued certificate, the expiration of all reinstated certificates shall be on June 30 following the date of reinstatement in accordance with Section 21-22 of the School Code.

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- d) The Regional Superintendent shall stamp the back of a lapsed certificate with the date of reinstatement.
- e) Standard Certificates issued between July 1, 1929, and July 1, 1951, do not lapse.
- f) When a lapsed certificate that was issued prior to February 15, 2000, has been reinstated and then is to be renewed pursuant to this Section, it shall be exchanged for a comparable standard teaching certificate in accordance with Section 25.11 and Appendix C of this Part. The certificate-holder shall thereupon become subject to the requirements of Sections 21-2 and 21-14 of the School Code and Subpart J of this Part regarding continuing professional development.
 - 1) Subsequent renewals of such an individual's certificate(s) shall be contingent upon his or her completion of continuing professional development activities in accordance with the requirements of Subpart J of this Part.
 - 2) College credit earned pursuant to subsection (b)(2)(A) of this Section shall not be used to satisfy any portion of the continuing professional development requirements of Section 21-14 of the School Code.

(Source: Amended at 29 Ill. Reg. 10068, effective June 30, 2005)

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- 1) Heading of the Part: Dismissal of Tenured Teachers Under Article 24 and Dismissal of Tenured Teachers and Principals Under Article 34 of the School Code
- 2) Code Citation: 23 Ill. Adm. Code 51
- 3)

| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
|--------------------------|-------------------------|
| 51.10 | Amendment |
| 51.20 | Amendment |
| 51.30 | Amendment |
| 51.40 | Amendment |
| 51.50 | Repeal |
| 51.55 | Amendment |
| 51.60 | Amendment |
| 51.70 | Amendment |
| 51.80 | Amendment |
- 4) Statutory Authority: 105 ILCS 5/24-12 and 34-85
- 5) Effective Date of Amendments: June 30, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? The amendments do contain an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act; please see Section 51.40(f).
- 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 11, 2005; 28 Ill. Reg. 3459
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Section 51.40(b) was expanded to acknowledge the requirement for hearing officers who are not residents of the district in question when the hearing will be held pursuant to Section 24-12 of the School Code.

The minimum amount that ISBE will pay to each hearing officer was re-inserted into Section 51.40(e).

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Language was added to Section 51.60(a) to clarify who may continue to be present at an open hearing when the hearing officer excludes witnesses and to avoid creating the impression that individuals who are not witnesses will be present at closed hearings.

Sections 51.70(c) and (d) were amplified to distinguish the status of the hearing officer's decision according to whether the hearing is held under Article 24 or Article 34 of the School Code.

A correction was made in Section 51.70(d)(2) to the effect that the costs in question are to be paid by the local board rather than the State Board of Education.

- 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 amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The procedures for the dismissal of tenured teachers in school districts outside of the City of Chicago and within the City of Chicago were previously separated into Parts 51 and 52. The proposed amendments to Part 51 represent the consolidation of these two Parts.

Distinctions have been made within the rules to accommodate statutorily established differences between the processes for the Chicago Public Schools and for other districts. Previously, Parts 51 and 52 had duplicated the statutory requirements for the provision of reasonable warning to remove remediable conduct, approval of a motion for dismissal, notice to a teacher, selection of a hearing officer, scheduling of the hearing, and suspension of a teacher pending the hearing. The new version of the rules does not include requirements that are sufficiently specified by statute, as ISBE does not want to force districts, teachers and other constituents to review both the statute and rules to determine where differences occur.

Under the new version of the rules, hearing officers for hearings involving the Chicago Public Schools may be residents of the City of Chicago. Part 52 previously required Chicago hearing officers to be non-residents, even though the statutory restriction on resident hearing officers only applies to hearings outside of the City of Chicago. Finally, the per diem payment of \$300 is now stated to be the minimum that will be paid. ISBE is currently reviewing its ability to increase this per diem amount.

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

Jon Furr
General Counsel
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

(217) 782-5270

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 51

DISMISSAL OF TENURED TEACHERS UNDER ARTICLE 24 AND
DISMISSAL OF TENURED TEACHERS AND PRINCIPALS
UNDER ARTICLE 34 OF THE SCHOOL CODE

Section

- 51.10 Definitions
- 51.20 Applicability of this Part
- 51.30 ~~Initiation of Dismissal Proceedings, Notice to Tenured Teachers, and Compliance with Other Applicable Provisions of the School Code~~
- 51.40 ~~Qualifications~~ ~~Rules Regarding the Appointment~~ of Hearing Officers; ~~Conditions of Service~~
- 51.50 Suspension Pending the Hearing (Repealed)
- 51.55 Pre-Hearing Procedures
- 51.60 The Hearing
- 51.70 The Decision
- 51.80 Waiver, Interpretation and Application of this Part

AUTHORITY: Implementing and authorized by Sections 24-12 and 34-85 of the School Code [105 ILCS 5/24-12 and 34-85].

SOURCE: Rules Prescribed by the State Board of Education Governing the Procedure for the Dismissal of Tenured Teachers in Illinois, adopted February 19, 1976; codified at 8 Ill. Reg. 13739; emergency amendment at 9 Ill. Reg. 13116, effective August 9, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5807, effective April 2, 1986; emergency amendment at 10 Ill. Reg. 19572, effective October 30, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 5950, effective March 23, 1987; amended at 29 Ill. Reg. 10108, effective June 30, 2005.

Section 51.10 Definitions

"Board" ~~means~~ ~~refers to~~ the local school board and not ~~to~~ the State Board of Education.

"Parties" means the tenured teacher against whom charges are brought and the school board bringing the charges.

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~~"Service" shall mean service of any document by personal service or by depositing in United States mail by certified mail, postage prepaid, sent to the individual's last known address.~~

"Tenured Teacher" means any teacher ~~who~~that has entered upon contractual continued service pursuant to ~~Section 24-11 of the~~The School Code [105 ILCS 5/24-11] and, in school districts having a population of 500,000 or more, a teacher or principal (see Sections 34-84 and 34-85 of the School Code [105 ILCS 5/34-84 and 34-85]), ~~Section 24-11 (Ill. Rev. Stat. 1983, ch. 122, par. 24-11).~~

(Source: Amended at 29 Ill. Reg. 10108, effective June 30, 2005)

Section 51.20 Applicability of this Part

~~a) This Part applies~~These rules apply to controversies arising under the fifth paragraph of Section 24-11 and to the dismissal for reason or cause of a tenured teacher (see Section 51.10 of this Part) under~~teachers "for reason or cause" as delineated in Section 24-12 or Section 34-85 of the~~The School Code (Ill. Rev. Stat. 1983, ch. 122, pars. 24-11 and 24-12).

b) ~~These Rules do not apply to:~~

- ~~1) dismissal of non-tenured teachers;~~
- ~~2) dismissal as a result of a decrease in the number of teachers employed;~~
- ~~3) dismissal as a result of a discontinuance of a particular teaching service;~~
- ~~4) dismissal of a teacher who attains retirement age.~~

(Source: Amended at 29 Ill. Reg. 10108, effective June 30, 2005)

Section 51.30 Initiation of Dismissal Proceedings, Notice to Tenured Teachers, and Compliance with Other Applicable Provisions of the School Code

The approval of charges or a motion for dismissal, provision of notice to the affected tenured teacher, selection of the hearing officer, scheduling of the hearing, and suspension of the teacher pending the hearing shall be as set forth in Section 24-12 or Section 34-85 of the School Code, as applicable. To comply with Section 24-12 or Section 34-85 of the School Code, as applicable, the notice to the tenured teacher of the charges or motion for dismissal must inform the teacher

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that he or she has ten days after receiving notice to request in writing that a hearing be scheduled. A motion approved by a board pursuant to Section 24-12 of the School Code or charges approved by the general superintendent pursuant to Section 34-85 of the School Code may include a scheduled date for a hearing, provided that the hearing is scheduled no fewer than 15 nor more than 30 days after the approval of the motion or charges.

- a) ~~Where the conduct which gives rise to the cause or reasons for dismissal is remediable the Board must serve the teacher with reasonable warning in writing, stating specific causes which, if not removed, may result in termination. However, no such written warning shall be required if the causes have been the subject of a remediation plan pursuant to article 24A of The School Code (Added by Public Act 84-126, effective August 1, 1985).~~
- b) ~~In the event the grounds are not remediable or in the event the grounds are not remedied after proper warning, the Board must approve a motion for dismissal which contains specific charges.
 - 1) ~~This motion must be approved by a majority of all the Board's members.~~
 - 2) ~~The motion shall state either that the causes are irremediable, or if remediable, that after reasonable warning has been given in writing of the specific grounds, they have not been remediated; or that the causes have been the subject of a remediation plan pursuant to Article 24A of The School Code.~~
 - 3) ~~The teacher must be served with written notice of the charges within 5 days of the adoption of the motion. The notice shall contain a bill of particulars.~~
 - 4) ~~Such notice shall inform the teacher that he/she has ten days after receiving notice to request in writing that a hearing be scheduled.~~~~
- e) ~~Upon written request by the teacher that a hearing be scheduled, the Board shall schedule a hearing. The Board may schedule the hearing in the motion.
 - 1) ~~This hearing is to be scheduled no less than 15 nor more than 30 days after the approval of the motion.~~
 - 2) ~~Within five days after a hearing date is set, a Notice of Hearing is to be forwarded to the teacher and the State Board of Education by the Secretary~~~~

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of the Board.

- 3) ~~The Notice of Hearing sent to the State Board of Education must be accompanied by a certified copy of the Board's motion and vote for dismissal, copies of the notice of charges including the bill of particulars, the teacher's written request for a hearing, and the last known address of the teacher.~~
- 4) ~~Within five days after receiving the Notice of Hearing, the State Board shall provide the local Board of Education and the teacher with a list of five prospective impartial hearing officers. The State Board shall select the first five hearing officers from the master list who do not reside in the school district. The State Board shall place the four hearing officers not selected at the bottom of the master list and shall rotate the names on the list accordingly.~~
- 5) ~~Within three days after receipt of the list of impartial hearing officers, first the teacher and then the Board or its authorized agents or attorneys shall alternately strike one name from the list until only one name remains. That person shall be the Hearing Officer.~~
- 6) ~~Within three days thereafter, the State Board of Education shall be notified in writing of the person designated as Hearing Officer.~~
- 7) ~~A copy of the notice of charges and a bill of particulars shall be forwarded by the State Board of Education to the designated Hearing Officer.~~
- d) ~~The teacher, the Board and the Hearing Officer may mutually agree upon the time and place of the hearing. If there is a dispute as to time or place, the Hearing Officer shall fix the time and place upon request made to the State Board of Education. If the Hearing Officer is fixing the place of hearing it must be within the district's boundaries.~~

(Source: Amended at 29 Ill. Reg. 10108, effective June 30, 2005)

**Section 51.40 Qualifications ~~Rules Regarding the Appointment of Hearing Officers;~~
Conditions of Service**

- a) Each hearing officer ~~All Hearing Officers~~ proposed by the State Board of Education shall possess the following qualifications:

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- 1) He or she~~They~~ must be accredited by a national arbitration association.
 - 2) He or she~~They~~ must be a non-resident of the school district involved in the hearing at the time of the hearing, unless the hearing involves a school district organized pursuant to Article 34 of the School Code.
 - 3) He or she~~They~~ must be disinterested and impartial.
 - 4) He or she~~They~~ must have no financial or personal interest in the result of the hearing.
- b) The State Board of Education shall provide the local board of education and the teacher with a list of five prospective impartial hearing officers. The State Board of Education shall select the first five hearing officers from the master list who do not reside in the school district, if required by Section 24-12 of the School Code. ~~The State Board of Education shall place the names of the four hearing officers not selected at the bottom of the master list and shall rotate the names on the list accordingly. Notice of the appointment of the Hearing Officer shall be mailed to the Hearing Officer by the State Board of Education and the signed acceptance of the Hearing Officer shall be filed with the State Board of Education within three days of receipt of notice of appointment.~~
- c) Upon notice of his or her~~his/her~~ appointment as a hearing officer~~Hearing Officer~~, the prospective hearing officer~~Hearing Officer~~ shall disclose any circumstances which he or she~~(s)he~~ believes might disqualify him or her~~him/her~~ as an impartial hearing officer~~Hearing Officer~~.
- 1) Upon receipt of such information the State Board of Education shall immediately disclose it to the parties.
 - 2) The parties may waive the presumptive disqualification.
 - 3) If either party declines to waive the presumptive disqualification, the State Board of Education shall declare a vacancy.
- d) If any hearing officer~~Hearing Officer~~ shall resign, die, withdraw, refuse or be unable or disqualified to perform the duties of his or her~~his/her~~ position, the State Board of Education shall, on proof satisfactory to it, declare the position vacant.

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- 1) Vacancies shall be filled in the same manner as that governing the making of the original appointment.
- 2) Should a vacancy occur during the course of a hearing, the entire matter shall be reheard by a new ~~hearing officer~~Hearing Officer.
- e) The State Board of Education shall pay the Hearing Officer a per diem of \$300 or such greater amount as the State Board of Education may determine based on available resources. Billing procedures shall be arranged on an individual basis between the State Board and the Hearing Officer.
- f) All communication from the parties to the ~~hearing officer~~Hearing Officer other than at oral hearing shall be in writing and copies shall be sent at the same time to the opposing party and the State Board of Education. However, where circumstances necessitate, the ~~hearing officer~~Hearing Officer may make other appropriate arrangements, including but not limited to conference telephone calls. The ~~hearing officer~~Hearing Officer shall promptly report to the other party the complete substance of any unilateral communications.
- g) All hearing officers shall abide by the professional standards set forth in "The Code of Professional Responsibility for Arbitrators of Labor Management Disputes;" (2003), published by ~~of~~ the National Academy of Arbitrators, 1 No. Main Street, Suite 412, Cortland, New York 13045; ~~the American Arbitration Association, and the Federal Mediation and Conciliation Service (1974 edition; any no later amendments to or editions of these standards are not incorporated by this rule).~~

(Source: Amended at 29 Ill. Reg. 10108, effective June 30, 2005)

Section 51.50 Suspension Pending the Hearing (Repealed)

- a) ~~If in the opinion of the Board the interests of the school require it, the Board may suspend the teacher pending the hearing.~~
- b) ~~If acquitted, the teacher shall not suffer loss of any salary by reason of the suspension.~~

(Source: Repealed at 29 Ill. Reg. 10108, effective June 30, 2005)

Section 51.55 Pre-Hearing Procedures

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- a) The parties and the hearing officer may agree to a location for the hearing. If there is a dispute as to the location of the hearing, the hearing officer shall fix the place of the hearing at a location within the district's boundaries.
- b) Discovery
- 1) Either party may request in writing from the other, with copies to the State Board of Education and the hearing officer, *a list of persons (and their addresses) who may be called as expert witnesses at the hearing, the omission of any such name to result in a preclusion of the testimony of such witness in the absence of a showing of good cause and the express permission of the hearing officer.*
- 2) ~~b)~~ Either party may request in writing from the other, with copies to the State Board of Education and the hearing officer, a list of persons (and their addresses) who may have knowledge of facts related to the charges and/or the defenses thereto. This is not to be construed as a list of witnesses to be used at the hearing, but no person whose name is not so disclosed may testify except upon good cause shown and by the express permission of the hearing officer.
- 3) ~~e)~~ Further discovery, limited to written interrogatories, bills of particulars, requests to produce, and lists of witnesses, may be allowed ~~for good cause.~~
- A) ~~1)~~ Application for such discovery ~~under this subsection (e),~~ shall be made by written motion to the hearing officer, with copies to the State Board of Education and the other party.
- B) ~~2)~~ The motion shall state the specific nature of the discovery and the circumstances necessitating the discovery. If interrogatories are sought, a copy of these same shall be attached to the motion.
- C) ~~3)~~ The hearing officer shall rule on the motion within five days after ~~of~~ receipt of the said motion, sending copies of the decision to both parties and to the State Board of Education. ~~If the motion for discovery is allowed, the~~ The ruling shall set a date by which such discovery shall be completed. In the case of interrogatories, receipt of the hearing officer's ruling shall be deemed service of the interrogatories where the provisions of subsection (b)(3)(B) of this

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Section ~~51.55(c)(2)~~ have been complied with.

~~D)4)~~ In ruling on the motion, the hearing officer shall not permit discovery which will unnecessarily delay the proceedings or harass a party, but shall allow only that discovery which will further the resolution of the dispute, avoid surprise to a party, or aid in doing substantial justice.

4) Each party providing answers to discovery requests shall sign his or her responses under oath, and each attorney making objections shall sign his or her objections under oath.

~~c)d)~~ Other pretrial motions may be resolved prior to the hearing at the discretion of the hearing officer, provided that no motion shall be resolved prior to the hearing that would result in a default judgment against the tenured teacher~~employee~~.

(Source: Amended at 29 Ill. Reg. 10108, effective June 30, 2005)

Section 51.60 The Hearing

- a) The hearing shall be closed to the public unless one of the parties requests that it be open and the hearing officer so orders at the request of either the Board or the teacher. The ~~hearing officer~~Hearing Officer shall exclude witnesses during the testimony of other witnesses upon the motion of either party, except that, at any time, one representative of each party in addition to counsel (or other authorized representative) shall be allowed to be present, even if that representative is also a witness. In open hearings, individuals who are not witnesses are not affected by exclusion under this subsection (a).
- b) The parties may be present and represented by counsel and by other authorized representatives.
- c) The order of proceeding shall be as follows:
- 1) The hearing shall be opened by the recording of the place, time, and date of the hearing, the presence of the ~~hearing officer~~Hearing Officer and the parties and counsel, if any, and any stipulations as to facts. Pre-hearing motions submitted in accordance with Section ~~51.40 and Section 51.55~~ of this Part and not previously disposed of shall be heard at this time.

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- 2) Upon the opening of the hearing, the hearing officer~~Hearing Officer~~ shall allow the parties to make opening statements.
- 3) The board ~~Board~~ shall proceed first to present its evidence ~~first~~.
- 4) Either party may cross-examine the witnesses, offer evidence, and present a defense or rebuttal.
- 5) All testimony shall be taken under oath or affirmation administered by the hearing officer~~Hearing Officer~~.
- 6) The hearing officer~~Hearing Officer~~ may issue subpoenas requiring the attendance of witnesses and subpoenas duces tecum, and, at the request of either of the parties, shall issue such subpoenas; but ~~the Hearing Officer~~ may limit the number of witnesses to be subpoenaed on behalf of either party to not more than ten.
- 7) The hearing officer~~Hearing Officer~~ shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenotype notes of all the testimony. The State Board of Education shall pay for the attendance and services of the court reporter as well as for the transcript, if any, ordered by the hearing officer~~Hearing Officer~~ for the purpose of making his or her~~his/her~~ decision.
- 8) Exhibits, when offered by either party, may be received in evidence by the hearing officer~~Hearing Officer~~. The names and addresses of all witnesses and exhibits, in order received, shall be made a part of the record. The hearing officer~~Hearing Officer~~ shall make rulings on the admissibility of exhibits.
- 9) The hearing officer~~Hearing Officer~~ for good cause shown may continue the hearing upon the request of the teacher or the board ~~Board~~ or upon his or her ~~his/her~~ own initiative, and shall adjourn when the teacher and the Board agree thereto.
- 10) The hearing may proceed in the absence of either party, who, after due notice, fails to be present or fails to obtain a continuance.
- 11) *The hearing officer shall consider and give weight to all of the teacher's evaluations written pursuant to Article 24A of the School Code.*

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- 12) The hearing officer may, at his or her ~~Hearing Officer~~ has discretion, to vary the normal procedure under which the ~~board~~ Board presents its ~~case~~ claim first, but in any ~~event~~ case shall afford full and equal opportunity to all parties for presentation of relevant proof.
 - 13) ~~At~~ Upon the conclusion of the hearing, each party may make a closing statement (orally and/or written at the discretion of the hearing officer ~~Hearing Officer~~) incorporating arguments of fact and law.
 - 14) The hearing shall not be considered closed until all evidence has been submitted and briefs, if allowed by the hearing officer ~~Hearing Officer~~, have been received by the hearing officer ~~Hearing Officer~~. The hearing officer ~~Hearing Officer~~ shall notify the parties, in writing, of the closing date of the hearing. A copy of the notice shall be forwarded to the State Board of Education.
- d) Evidentiary ~~rules~~ Rules to be followed during the hearing shall be as follows:
- 1) The parties may offer such evidence as they desire, and each party shall produce such additional evidence as the hearing officer ~~Hearing Officer~~ may deem necessary to an understanding and determination of the dispute. *The hearing officer may limit the number of witnesses on behalf of either party to no more than ten. (Sections 24-12 and 34-85 of the School Code)*
 - 2) The hearing officer ~~Hearing Officer~~ shall be the judge of the relevancy and materiality of the evidence offered and strict conformity to legal rules of evidence shall not be necessary.
 - 3) Objections to evidentiary offers may be made and shall be noted in the record. The hearing officer ~~Hearing Officer~~ shall have the power to make rulings, including the power to exclude ~~irrelevant, immaterial or unduly repetitious~~ evidence. "Offers of Proof" shall be permitted.
 - 4) Any ~~hostile-witness~~ designated as hostile by the hearing officer may be examined as if under cross-examination.
 - 5) If the hearing officer grants a party's request to submit a document after the evidentiary portion of the hearing is closed, the party shall file that document with the hearing officer, with copies to the State Board of

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Education and the other party, within the time designated by the hearing officer. ~~All documents not filed with the Hearing Officer at the hearing but which are arranged to be submitted by agreement of the parties at the hearing or subsequently, shall be filed with the Hearing Officer, with copies to the State Board of Education and the other party.~~

- e) ~~When the hearing officer determines that neither party has further proof to offer or witnesses to be heard, he or she~~ Before concluding the hearing, the Hearing Officer shall inquire of all parties whether they have any further proof to offer or witnesses to be heard. Upon receiving negative replies, the Hearing Officer shall declare the hearing concluded, and a minute thereof shall be so noted in the record ~~recorded.~~ If written briefs are to be submitted subsequently, the hearing officer ~~Hearing Officer shall so note.~~

(Source: Amended at 29 Ill. Reg. 10108, effective June 30, 2005)

Section 51.70 The Decision

When a hearing is held under Section 24-12 of the School Code, the decision must be rendered within 30 days after the conclusion of the hearing or closure of the record, whichever occurs later. When a hearing is held under Section 34-85 of the School Code, the hearing officer's findings of fact and recommendation must be rendered within 45 days after the conclusion of the hearing. For purposes of the remainder of this Section, "decision" means either a decision under Section 24-12 of the School Code or the findings of fact and recommendation under Section 34-85 of the School Code.

- a) ~~The hearing officer~~ Hearing Officer shall, with reasonable dispatch, make a decision in writing as to whether or not the teacher shall be dismissed. The hearing officer's ~~Such~~ decision shall include findings of fact.
- b) ~~If the hearing officer fails, without good cause, to render a~~ The decision within the required timeframe shall be rendered no later than 45 days from the date of closing the hearing, his or her name shall be struck from the master list of hearing officers maintained by the State Board of Education for a period of at least six months unless the parties agree to waive the 45-day period.
- c) A copy of the hearing officer's decision shall be given to the State Board of Education to be forwarded by certified mail to both the teacher and the Board, or their legal representatives of record. If Section 34-85 of the School Code applies, the decision of the Board shall also be given to the State Board of Education to be

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forwarded by certified mail to the teacher.

- d) The decision of the hearing officer, if rendered pursuant to Section 24-12 of the School Code, Hearing Officer is final unless reviewed under the Administrative Review Law [735 ILCS 5/Art. III], (Ill. Rev. Stat. 1983, ch. 110, pars. 3-101 et seq.) as provided in Section 24-16 of the The School Code [105 ILCS 5/24-16](Ill. Rev. Stat. 1983, ch. 122, par. 24-16). The decision of the hearing officer, if rendered pursuant to Section 34-85 of the School Code, is only a finding of fact and recommendation to the Board. The Board's decision to dismiss a tenured teacher from its employ is final unless reviewed under the Administrative Review Law, as provided in Section 34-85b of the School Code [105 ILCS 5/34-85b].
- 1) If neither party appeals, then either party desiring a transcript of the hearing shall pay for the cost thereof.
 - 2) ~~The~~In the event such review is instituted, any costs of preparing and filing the record of proceedings in the case of a review shall be paid by the Board.
 - 3) The record of the hearing shall include:
 - A) all pleadings and exhibits,
 - B) a statement of matters officially noticed,
 - C) a transcript of the hearing, and
 - D) the decision of the hearing officer (and the decision of the Board, if Section 34-85 of the School Code applies)~~Hearing Officer.~~
- e) Pursuant to Sections 24-12 and 34-85 of the School Code, the Board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision within the applicable time specified in this Section.

(Source: Amended at 29 Ill. Reg. 10108, effective June 30, 2005)

Section 51.80 Waiver, Interpretation and Application of this Part

- a) Any party who proceeds with the hearing after knowledge that any provision of this Part prior to hearing has not been complied with and who fails to state his or

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~~her objection~~ object thereto in writing either to the State Board of Education or to the hearing officer~~Hearing Officer~~ shall be deemed to have waived his or her~~his/her~~ right to object.

- b) The hearing officer~~Hearing Officer~~ shall interpret and apply the provisions of this Part~~these rules~~ insofar as they relate to his or her~~his/her~~ powers and duties and shall follow any court~~Court~~ interpretation of this Part~~these rules~~.
- c) A violation of the professional standards identified in Section 51.40(g) of this Part~~set forth in "The Code of Professional Responsibility for Arbitrators of Labor Management Disputes," of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service (1974 edition; any later amendments are not incorporated by this rule)~~ shall be grounds for removal of the hearing officer~~Hearing Officer~~ from the master list of Hearing Officers maintained by the State Board of Education.
- d) All other rules shall be interpreted and applied by the State Board of Education.

(Source: Amended at 29 Ill. Reg. 10108, effective June 30, 2005)

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Dismissal of Tenured Teachers and Civil Service Employees Under Article 34
- 2) Code Citation: 23 Ill. Adm. Code 52
- 3)

| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
|--------------------------|-------------------------|
| 52.10 | Repeal |
| 52.20 | Repeal |
| 52.30 | Repeal |
| 52.35 | Repeal |
| 52.40 | Repeal |
| 52.50 | Repeal |
| 52.60 | Repeal |
| 52.70 | Repeal |
| 52.80 | Repeal |
| 52.90 | Repeal |
- 4) Statutory Authority: 105 ILCS 5/34-85b
- 5) Effective Date of Repealer: June 30, 2005
- 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 repealer, 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 11, 2005; 29 Ill. Reg. 3474
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.
- 13) Will this repealer replace any emergency repealer currently in effect? No

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14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Repealer:

The procedures for the dismissal of tenured teachers in school districts outside of the City of Chicago and within the City of Chicago were previously separated into Parts 51 and 52. The repeal of Part 52 accompanies comprehensive amendments to Part 51 that consolidate the material in these two Parts.

16) Information and questions regarding this Adopted Repealer shall be directed to:

Jon Furr
General Counsel
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

(217) 782-5270

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Temporary Relocation Expenses
- 2) Code Citation: 23 Ill. Adm. Code 145
- 3) Section Number: 145.20 Adopted Action:
Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.77
- 5) Effective Date of Amendment: June 30, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? The rules do not contain an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 11, 2005; 29 Ill. Reg. 3489
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: As a result of the general review of these rules, it has been determined that the process for repaying loan funds provided under this program can be simplified. Instead of requiring that districts submit to ISBE the proceeds of tax levies related to eligible expenses within 30 days after the proceeds are received, we believe it will be sufficient for each affected district to make one payment annually,

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consisting of all proceeds received to that point. There is no penalty for a district whose levy proceeds arrive too late to be included in the relevant annual payment.

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

Deb Vespa, Division Administrator
School Business and Support Services
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

(217) 785-8779

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
 SUBTITLE A: EDUCATION
 CHAPTER I: STATE BOARD OF EDUCATION
 SUBCHAPTER c: FINANCE

PART 145
 TEMPORARY RELOCATION EXPENSES

| | |
|-------------|-----------------------------------------|
| Section | |
| 145.10 | Definitions |
| 145.20 | General Requirements |
| 145.30 | Allowable Expenses |
| 145.40 | Documentation (Repealed) |
| 145.50 | Accounting Requirements |
| 145.60 | Determination of Loan and Grant Amounts |
| 145.TABLE A | Accounting Entries (Repealed) |

AUTHORITY: Implementing and authorized by Section 2-3.77 of the School Code [105 ILCS 5/2-3.77].

SOURCE: Adopted at 10 Ill. Reg. 15060, effective August 28, 1986; amended at 22 Ill. Reg. 19777, effective October 30, 1998; amended at 29 Ill. Reg. 10126, effective June 30, 2005.

Section 145.20 General Requirements

- a) The school board of a district making initial application for a temporary relocation expense loan or grant shall adopt and submit to the State Board of Education along with its application:
 - 1) a resolution levying the tax provided for by Section 17-2.2c of the School Code [105 ILCS 5/17-2.2c] at the maximum rate permitted thereunder, in order to repay the State of Illinois for funds received pursuant to this Part, ~~and agreeing to submit the levy proceeds to the State Board within thirty days after their receipt by the district;~~ and
 - 2) a resolution encumbering all insurance proceeds payable to the district for relocation expenses for the affected facility and providing that ~~thesesueh~~ proceeds shall be paid to the State Board of Education within thirty days after their receipt by the district.

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- b) Each district shall remit to the State Board of Education all proceeds received by the district from the tax levied under Section 17-2.2c of the School Code no later than January 31 of the year following the calendar year to which the proceeds are attributable. Proceeds received by the district after that date may, at the district's discretion, be remitted at any time prior to the next January 31 deadline or may be held by the district and included with that payment. (That is, only one payment per year shall be required, but a district may make additional payments at its option.)
- c) Each application shall indicate:
- 1) whether the application is for a loan, a grant, or both;
 - 2) the date and nature of the qualifying event leading to the application;
 - 3) that the school board has adopted a plan to house the displaced students permanently;
 - 4) the time required to effect the permanent solution described in the plan;
 - 5) an estimate of the necessary temporary relocation expenses to be incurred and a description of the necessity for them;
 - 6) an estimate of the amount of insurance proceeds to be received;
 - 7) an estimate of the amount of funds that can be raised through the levy of the tax called for in Section 17-2.2c of the School Code;
 - 8) the amount which the district does not expect to be able to repay to the State Board of Education from funds realized under subsections (b)(6) and (7) and for which an outright grant is requested, if any; and
 - 9) an agreement to comply with Section 2-3.77 of the School Code and this Part and to authorize the State Board of Education to deduct from the district's general State aid any amount owed to the State Board under this Part which is in default.
- d)e) Applications shall be considered on a first come, first served basis as long as funds remain available. Districts otherwise eligible but not receiving a loan or grant due to insufficiency of the appropriation shall receive first consideration in

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the subsequent fiscal year.

(Source: Amended at 29 Ill. Reg. 10126, effective June 30, 2005)

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- 1) Heading of the Part: Electronic Transfer of Funds
- 2) Code Citation: 23 Ill. Adm. Code 155
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 155.20 | Amendment |
| 155.30 | Amendment |
| 155.40 | Amendment |
| 155.50 | Amendment |
| 155.60 | Amendment |
| 155.70 | Amendment |
- 4) Statutory Authority: 105 ILCS 5/2-3.2a and 2-3.116
- 5) Effective Date of Amendments: June 30, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? The rules do not contain an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 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 11, 2005; 29 Ill. Reg. 3494
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The word "form" was added to Section 155.30(e).
- 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 amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments:

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These changes represent the results of the general review of this set of rules. In addition to general technical updating, the revisions include elimination of the option for certain participants to designate multiple bank accounts for the receipt of electronically transmitted funds. We have not found that many entities have used this option, perhaps because it entails time-consuming maintenance not only on ISBE's part but also on the part of payees.

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

Tim Imler, Division Administrator
Funding and Disbursements
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

(217) 782-5256

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER c: FINANCE

PART 155

ELECTRONIC TRANSFER OF FUNDS

Section

| | |
|--------|----------------------------------------------------------------------------|
| 155.10 | Purpose |
| 155.20 | Participation |
| 155.30 | Initiation of Electronic Fund Transfers |
| 155.40 | Altering Electronic Fund Transfer Arrangements |
| 155.50 | Terminating Electronic Fund Transfer Arrangements |
| 155.60 | Responsibilities of the State Superintendent Board of Education |
| 155.70 | Responsibilities of the Comptroller |

AUTHORITY: Implementing and authorized by Sections 2-3.2a and 2-3.116 of the School Code [105 ILCS 5/2-3.2a and 2-3.116].

SOURCE: Adopted at 19 Ill. Reg. 16538, effective December 5, 1995; amended at 26 Ill. Reg. 16193, effective October 21, 2002; amended at 29 Ill. Reg. 10131, effective June 30, 2005.

Section 155.20 Participation

- a) Beginning July 1, 2002, each payment made under a program administered by the State Board of Education shall be disbursed by the Comptroller through the electronic transfer of funds. Entities required to receive funds electronically shall include but not be limited to:
 - 1) school districts;
 - 2) regional superintendents of schools;
 - 3) other public educational agencies such as cooperatives, joint agreements, and charter schools;
 - 4) other payees such as nonpublic schools, universities, hospitals, township treasurers, community-based organizations, and day care centers; and

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- 5) individuals.
- b) At the option of the local school board, a school district may request its regional superintendent of schools to receive all payments due to the district. Each school board that wishes payments to be directed to the regional office of education shall adopt a resolution to this effect. A school district shall make this request in writing no later than May 31 of the fiscal year preceding the fiscal year in which the arrangement is to begin and shall forward to the regional superintendent a copy of the resolution adopted by the local board.
- 1) If the regional superintendent wishes to accept receipt of one or more districts' funds, he or she shall do so no later than June 10 of the fiscal year preceding the fiscal year in which the arrangement is to begin by submitting to the State ~~Superintendent~~Board of Education a copy of each school board's resolution.
 - 2) If the regional superintendent does not accept receipt of a district's funds, he or she shall send written notification to this effect to the district superintendent no later than ten days after receiving the district's request so that the district may comply with the requirements of Section 155.30 of this Part prior to the beginning of the new fiscal year.
- c) The State ~~Superintendent~~Board of Education shall direct the Comptroller to transfer each payment to an account identified by a participant pursuant to Section 155.30 of this Part, unless:
- 1) an entity participates in the public funds investment account administered by the State Treasurer and an approved application has been provided to the State ~~Superintendent~~Board by the Treasurer;
 - 2) a State agency, by completing a form supplied by the State ~~Superintendent~~Board, instructs the State ~~Superintendent~~Board to remit funds due to the agency via intergovernmental transfer;
 - 3) the State Board is required to direct funds to a specified financial institution in conformance with an agreement executed under Section ~~820-50(b)7.59~~ of the Illinois ~~Development~~ Finance Authority Act [20 ILCS ~~3501/820-50(b)3505/7.59~~], Section 13 of the Local Government Debt Reform Act [30 ILCS 350/13], or other applicable law; or

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- 4) the expected duration of a financial relationship is so short or the expected number of payments is so small as to make the establishment of an arrangement for the electronic transfer of funds undesirable in the ~~judgment~~judgement of the State ~~Superintendent~~Board.

(Source: Amended at 29 Ill. Reg. 10131, effective June 30, 2005)

Section 155.30 Initiation of Electronic Fund Transfers

- a) To initiate electronic transfer of payments, the participant shall provide the following information to the State ~~Superintendent~~Board of Education on an authorization~~a~~ form prescribed by the State ~~Superintendent~~Board and approved by the Comptroller.
 - 1) The participant's nine-digit taxpayer identification number or Social Security number;
 - 2) The participant's eleven-digit code assigned by the State ~~Superintendent~~Board;
 - 3) The name of the participant;
 - 4) The telephone number of the participant's main business office;
 - 5) The street address, city, state, and zip code of the participant's main business office;
 - 6) The name of the chief executive officer for the participant;
 - 7) A dated statement of authorization, signed by the chief executive officer of the participant, for all payments to be directed to the participant's account and for necessary debit entries and adjustments for errors to be initiated;
 - 8) The name of the financial organization to which funds are to be electronically transferred, which shall be a member of the Federal Access or the Automated Clearing House (the nationwide network that provides the electronic payment system);
 - 9) The street address, city, state, and zip code of the financial organization designated;

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- 10) The title, type (checking or savings), and number of the account into which electronic transfers are to be made;
 - 11) The nine-digit routing number of the financial organization designated; and
 - 12) The telephone number of the financial organization.
- b) A copy of a deposit slip or voided check for the account into which funds are to be electronically transferred must be attached to the authorization application form required under subsection (a) of this Section. If no deposit slip or voided check is available, the participant shall submit a signed statement from the financial organization verifying that the account belongs to the participant and that the information supplied is correct.
 - c) Each participant shall make all necessary arrangements with the designated financial organization for the receipt of electronic fund transfers, including at least:
 - 1) obtaining the organization's signed, written agreement for electronic transfers, on a form supplied by the State Superintendent~~Board~~ of Education as approved by the Comptroller, which shall state that:
 - A) the financial organization agrees to receive and deposit sums for the participant payee,
 - B) the financial organization understands that its account number will be included as additional identification on individual payment credits to the participant payee's account and that the participant payee has the right to cancel the authorization with the financial organization,
 - C) the financial organization agrees to forward all communications from the State of Illinois to the participant payee promptly, including the information contained in the addendum,
 - D) the financial organization agrees to return all payments that are not due to the participant payee, and

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- E) the financial organization may reserve the right to cancel the agreement by notice to the participant payee; and
- 2) establishing the frequency and detail of transaction communications to ensure the participant payee's receipt of the 38-character descriptive entry called for in Section 155.60(c) of this Part, so that the origin and nature of each payment can be correctly identified.
- d) ~~Each~~Unless otherwise provided in this subsection (d), each participant shall designate only one financial organization and one account number to which funds shall be electronically transferred.
- 1) ~~A regional superintendent of schools may designate two accounts, provided that one is reserved for the operational funds of the regional office and the other is a distributive account into which funds received for school districts shall be deposited.~~
- 2) ~~A fiscal or administrative agent for a cooperative, a joint agreement, or another similar public educational entity may designate multiple accounts if necessary to segregate the funds attributable to different members.~~
- 3) ~~A university or college may designate one account for each of its administrative offices (e.g., the University of Illinois at Urbana/Champaign and at Chicago).~~
- 4) ~~A nonpublic or not for profit entity such as a child care company that operates several day care centers may designate one account for each of its administrative offices.~~
- 5) ~~A participant may receive approval from the State Board of Education to designate more than one account if it demonstrates that its structure, scope, or complexity compares to that of an entity discussed in any of subsections (d)(1) through (4) of this Section.~~
- e) Within 30 days after receipt of a completed authorization form application from a participant, the State SuperintendentBoard of Education will request the Comptroller to establishconfirm the establishment of the electronic transfer of funds for the participant by submission of a pre-note or zero fund transfer, i.e., a practice exercise in which no funds are transmitted.

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- f) After a pre-note transfer from the Comptroller is attempted and the time period allowed for completion of the pre-note transfer has expired, all payments to the participant for programs administered by the State Board of Education will be directed electronically unless the Comptroller receives notice from the financial institution that the pre-note transfer has failed or as may be otherwise required by law.
- g) Upon receipt of notice that a pre-note transfer has failed, the Comptroller shall notify the State ~~Superintendent~~Board of Education. The State ~~Superintendent~~Board of Education shall take the actions necessary to identify the reason for the pre-note transfer's failure and to facilitate the electronic payment to the participant.

(Source: Amended at 29 Ill. Reg. 10131, effective June 30, 2005)

Section 155.40 Altering Electronic Fund Transfer Arrangements

- a) A participant wishing to designate a different account for the transfer of funds under this Part shall complete a new ~~authorization~~application form as called for in Section 155.30(a) of this Part and submit it to the State ~~Superintendent~~Board of Education at least ~~30~~thirty days before activation of transfers to the new account is desired.
- b) Each change in an account will be confirmed via submission of a pre-note transfer as described in Section 155.30(e) of this Part.
- c) After the State ~~Superintendent~~Board receives confirmation of an accurate pre-note fund transfer, all payments to the participant will be made to the newly designated account.

(Source: Amended at 29 Ill. Reg. 10131, effective June 30, 2005)

Section 155.50 Terminating Electronic Fund Transfer Arrangements

The State ~~Superintendent~~Board of Education and the Comptroller shall have the right to terminate an arrangement for the electronic transfer of funds for repeated problems or other interruptions in the processing of electronic fund transfers, or as otherwise permitted or required by law.

(Source: Amended at 29 Ill. Reg. 10131, effective June 30, 2005)

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Section 155.60 Responsibilities of the State ~~Superintendent~~Board of Education

- a) The State ~~Superintendent~~Board of Education shall follow the instructions given by a participant in an ~~authorization form~~application submitted pursuant to Section 155.30 or Section 155.40 of this Part.
- b) The State ~~Superintendent~~Board of Education shall transmit information received from participants pursuant to this Part to the Comptroller, to ensure that participants receive transfers into the correct accounts.
- c) The State ~~Superintendent~~Board of Education shall transmit to the Comptroller a 38-character descriptive entry for each payment authorized which, when communicated to the participant (see Section 155.70 of this Part), will describe the origin and nature of the payment.
- d) The State ~~Superintendent~~Board of Education or the Comptroller may withhold payments to a participant as permitted or required by law. The State ~~Superintendent~~Board or the Comptroller, as applicable, shall provide written notice to the participant of ~~this~~its action.
- e) The State ~~Superintendent~~Board of Education may withhold payments to a participant for failure to meet the terms of a contract.
- f) The State ~~Superintendent~~Board of Education will handle all inquiries regarding electronic fund transfers made by the State ~~Superintendent~~Board, and only authorized personnel of the State Board shall forward unresolved inquiries to the ~~Office~~office of the Comptroller.

(Source: Amended at 29 Ill. Reg. 10131, effective June 30, 2005)

Section 155.70 Responsibilities of the Comptroller

- a) The Comptroller will receive transmissions of information and instructions from the State ~~Superintendent~~Board of Education permitting the electronic transfer of funds.
- b) In response to instructions received from the State ~~Superintendent~~Board, the Comptroller will transmit payments electronically to designated financial institutions. Each such transmission shall include the complete 38-character descriptive entry called for in Section 155.60(c) of this Part.

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- | c) The Comptroller will notify the State ~~Superintendent~~Board of Education of all unsuccessful pre-note fund transfers.
- d) The Comptroller may issue a warrant instead of transferring funds electronically when:
- 1) A designated financial institution rejects a transfer attempted pursuant to this Part;
 - 2) An amount is subject to garnishment, offset, reduction, involuntary withholding, or other proceeding as provided by law (any amount payable after such action may be issued as a warrant); or
 - 3) The transfer is rejected by the Comptroller's internal authorization system.

(Source: Amended at 29 Ill. Reg. 10131, effective June 30, 2005)

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- 1) Heading of the Part: Secular Textbook Loan
- 2) Code Citation: 23 Ill. Adm. Code 350
- 3) Section Number: 350.15 Adopted Action: Amendment
- 4) Statutory Authority: 105 ILCS 5/18-17
- 5) Effective Date of Amendment: June 30, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 4, 2005; 29 Ill. Reg. 3049
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: Section 350.15(c) has been changed to remove a requirement that textbook vendors be bonded through the State Board of Education and to require instead that the vendors "have presented evidence to the State Board of Education of being bonded and meeting the other requirements of Section 28-1 of the School Code [105 ILCS 5/28-1]".
- 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 amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This amendment responds to two separate issues.
 1. Section 18-17 of the School Code authorizes either a parent/guardian or a student to request the loan of a textbook under the Secular Textbook Loan Program. The rules implementing this provision, however, have stipulated the content of that

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request in such a way that it appears only a parent can request the loan of a textbook.

Under the amendments, school districts would be required to establish procedures for parents/guardians and students to use when requesting the loan of a textbook and that information about the process be provided to parents in writing (e.g., student handbook, newsletter, flyer).

2. The rules set forth the deadlines by which applicants may request the purchase of textbooks for use under the loan program. Under the current timeline, textbooks ordered by applicants sometimes are not received by the start of the school year. Additionally, problems arose for the agency when vendors could not be paid by the end of the fiscal year for books ordered in that fiscal year.

Deadlines associated with the textbook ordering process are being moved one month earlier in the fiscal year, allowing request forms to be submitted to, and processed by, the agency sooner. The earlier dates ensure that the program is implemented in a more timely and efficient manner.

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

Melissa Oller
Fiscal Services
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

(217) 785-8777

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER j: TEXTBOOKSPART 350
SECULAR TEXTBOOK LOAN

| | |
|---------|-------------------------------------|
| Section | |
| 350.10 | Definition of Terms |
| 350.15 | Acquisition Procedures |
| 350.20 | Administrative Practices (Repealed) |
| 350.25 | Disposal Procedures |
| 350.30 | Fiscal Procedures (Repealed) |

AUTHORITY: Implementing and authorized by Section 18-17 of the School Code [105 ILCS 5/18-17].

SOURCE: Adopted September 27, 1976; amended at 2 Ill. Reg. 27, p. 163, effective June 27, 1978; amended at 4 Ill. Reg. 37, p. 770, effective September 6, 1980; codified at 7 Ill. Reg. 13870; amended at 8 Ill. Reg. 2462, effective February 15, 1984; amended at 15 Ill. Reg. 17597, effective November 20, 1991; amended at 20 Ill. Reg. 9951, effective July 12, 1996; amended at 24 Ill. Reg. 7256, effective May 1, 2000; amended at 28 Ill. Reg. 7050, effective May 3, 2004; amended at 29 Ill. Reg. 10141, effective June 30, 2005.

Section 350.15 Acquisition Procedures

- a) Students shall not be assessed a fee for any textbook or book substitute provided under the Secular Textbook Loan Program.
- b) Eligible applicants shall provide parents with a brief written explanation of the textbook loan program and the process for a parent/guardian or student to request the loan of a secular textbook in a student handbook, newsletter ~~or~~ flyer or by similar means. A parent/guardian or student may request the loan of a secular textbook(s) by submitting an individual request (see Section 18-17 of the School Code). School districts shall develop procedures for taking a request from a parent/guardian or student that shall contain the following language: "I hereby request the loan of secular textbooks in accordance with Section 18-17 of the School Code. I understand that this request will remain valid so long as my son/daughter is enrolled in (name of school) and that I may at any time withdraw

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~~this request."~~

- c) Requested textbooks shall be those that have been adopted for use in the district or school and that are available from those vendors that have presented evidence to the State Board of Education of being ~~are~~ bonded and meeting the other requirements of Section 28-1 of the School Code [105 ILCS 5/28-1] ~~through the State Board of Education~~. The State Board of Education each fiscal year shall provide on its textbook loan website the list of vendors from which materials may be purchased and the list of secular textbooks that the State Board of Education has identified as eligible under the program.
- d) By the end of November~~In January~~ of each year, the State Board of Education will identify the grade levels to be funded and calculate the per-pupil allocation. Those school administrators with schools eligible to participate will be notified in writing as to:
- 1) the total amount available to their students to be used for the grade levels identified for funding (the per-pupil allocation will be based upon the total amount of funds appropriated for the program and the total statewide public and nonpublic school enrollment in the specific grade levels to be funded, as of the last school day in September of the current school year); and
 - 2) the password to be used to access the textbook loan website for the purposes of completing a Request Form.
- e) The Request Forms shall be completed by the school administrator. Electronic submission of the Request Form shall certify compliance with Section 18-17 of the School Code and this Part, as well as with Article X, Section 3, of the Illinois Constitution, which provides in pertinent part that *no funds may be used to help support or sustain any institution controlled by any church or sectarian denomination*.
- f) Each eligible applicant shall submit its completed Request Form on or before March~~April~~ 15. Eligible applicants will be unable to access the Request Form after this deadline.
- g) Each school administrator shall be informed via U.S. mail by April 15~~the end of May~~ as to the specific textbooks that will be purchased.

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- h) On a form provided by the State Board of Education, the school administrator shall confirm that the quantity and titles of all textbooks received are the same as ordered. Such confirmation shall be mailed or faxed to the State Board of Education, using the address or fax number provided on the form, within seven days after receipt of the textbooks.
- i) All textbooks provided through the program shall be listed on an inventory maintained by the State Board of Education. Each school shall identify (stamp) the materials received under the program as "Property of the State of Illinois, School Year__".
- j) Each recipient shall have procedures to assure the return of all textbooks from those to whom they have been loaned.

(Source: Amended at 29 Ill. Reg. 10141, effective June 30, 2005)

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- 1) Heading of the Part: Contested Cases and Other Formal Hearings
- 2) Code Citation: 23 Ill. Adm. Code 475
- 3)

| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
|--------------------------|-------------------------|
| 475.10 | Amendment |
| 475.15 | New Section |
| 475.20 | Amendment |
| 475.30 | Amendment |
| 475.40 | Amendment |
| 475.50 | Amendment |
| 475.60 | Amendment |
| 475.70 | Amendment |
| 475.80 | Amendment |
| 475.90 | Amendment |
| 475.100 | Amendment |
- 4) Statutory Authority: 5 ILCS 100/5-10(a)(i)
- 5) Effective Date of Amendments: June 30, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? These amendments do not contain an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 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 11, 2005; 29 Ill. Reg. 3504
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The authority note for the Part was corrected.

Section 475.20(a) was revised to provide more clearly for potential alternative means of filing documents and requests, and Section 475.20(b) was edited to correspond to that revision.

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Language was added to Section 475.60(e)(2) to allow for the disqualification of a hearing officer due to physical or mental incapacity or due to failure to perform the required duties.

Section 475.60(g) was revised to clarify who may remain present at a hearing even when the hearing officer excludes witnesses.

Language was added to Section 475.100(b)(2)(B) to establish a timeline for the issuance of a final order.

- 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 amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Part 475 is being generally updated in this issue of the *Illinois Register* and also revised to incorporate a number of provisions that have been found in another set of rules (Hearings Before the State Teacher Certification Board – Part 480). These two Parts cover similar topics and, therefore, lend themselves to being combined.

Part 475 will now require evidentiary hearings that are under the jurisdiction of the Certification Board (STCB) to be conducted by a hearing officer in accordance with the Illinois Administrative Procedure Act (IAPA) unless the STCB specifically elects not to appoint a hearing officer. A hearing can be held in the presence of the entire Certification Board or independent of it. In any case, the STCB will make the final decision.

Others of the amendments change timeframes for notices and responses in order to give the parties more time to prepare their material. Technical corrections and updating are included as well.

- 16) Information and questions regarding these adopted amendments shall be directed to:
Jon Furr, General Counsel
Illinois State Board of Education (217) 782-5270
100 North First Street
Springfield, Illinois 62777-0001

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
 SUBTITLE A: EDUCATION
 CHAPTER I: STATE BOARD OF EDUCATION
 SUBCHAPTER n: DISPUTE RESOLUTION

PART 475
 CONTESTED CASES AND OTHER FORMAL HEARINGS

Section

| | |
|---------------|------------------------------------------------------------|
| 475.10 | Authority and Applicability |
| <u>475.15</u> | <u>Alternatives to Appointment of Hearing Officers</u> |
| 475.20 | Filing and Form of Documents |
| 475.30 | Appearance of Parties |
| 475.40 | Notice of Hearing |
| 475.50 | Motion and Answer |
| 475.60 | Hearing Officer: <u>Qualifications</u> , Powers and Duties |
| 475.70 | Pre-Hearing Conferences and Consent Orders |
| 475.80 | <u>Depositions and</u> Discovery |
| 475.90 | Hearings |
| 475.100 | Orders |

AUTHORITY: Implementing Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and Sections 21-1 and 21-23 of the School Code [105 ILCS 5/21-1 and 21-23] and authorized by Section 5-10(a)(i) of the Illinois Administrative Procedure Act.

SOURCE: Adopted at 4 Ill. Reg. 28, p. 253, effective July 9, 1980; codified at 8 Ill. Reg. 13757; amended at 29 Ill. Reg. 10146, effective June 30, 2005.

Section 475.10 Authority and Applicability

- a) ~~This~~The rules in this Part ~~is authorized by Section 5-10(a)(i) of~~are enacted pursuant to the Illinois Administrative Procedure Act ~~[5 ILCS 100/5-10(a)(i)]~~(Ill. Rev. Stat. 1983, ch. 127, par. 1004(a)(1)).
- b) ~~This Part~~These rules shall apply to all administrative hearings conducted under the jurisdiction of the Illinois State Board of Education (ISBE), ~~or~~or the State Teacher Certification Board (STCB) wherein the provisions of the Illinois Administrative Procedure Act concerning contested cases ~~shall~~apply or where provided by the rules of the State Board of Education governing formal administrative hearings, except as provided in

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subsection (c) of this Section below.

- c) Where statutes or other rules applicable to ~~of the ISBE or the STCB~~ State Board of Education contain practices different from those set forth in this Part ~~these rules~~, then those separate statutes and rules shall apply insofar as they differ from this Part, e.g., in the case of hearings related to renewal of teaching certificates conducted under Section 21-14 of the School Code [105 ILCS 5/21-14(h)(2)] and pursuant to 23 Ill. Adm. Code 25 (Certification) ~~these rules~~.

(Source: Amended at 29 Ill. Reg. 10146, effective June 30, 2005)

Section 475.15 Alternatives to Appointment of Hearing Officers

- a) When an administrative hearing is to be held pursuant to this Part, the entity under whose jurisdiction the hearing will be held may determine whether a hearing officer will be designated. When no hearing officer is designated, all authority to conduct the hearing pursuant to this Part shall be exercised by:
- 1) the State Superintendent or his representative, for hearings conducted under the jurisdiction of the ISBE or the State Superintendent;
 - 2) the STCB or its representative, for hearings conducted under the jurisdiction of the STCB.
- b) For purposes of this Part, the term "hearing officer" shall, as applicable, include the individuals described in subsection (a) of this Section.

(Source: Added at 29 Ill. Reg. 10146, effective June 30, 2005)

Section 475.20 Filing and Form of Documents

- a) Documents and requests permitted or required to be filed with the ISBE ~~State Board of Education~~ or the State Superintendent of Education pursuant to this Part ~~in connection with a hearing~~ shall be addressed and mailed or personally delivered in duplicate to the State Superintendent of Education, 100 North First Street, Springfield, Illinois 62777, unless another address or an alternative means of filing (such as electronic transmission or submission of facsimile copies) is designated in the notice of hearing. The office of the State Board of Education is open for filing of documents from 8:00 a.m. to 5:00 p.m., Monday through Friday, except on federal ~~National~~ and State legal holidays.

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- b) Documents and requests permitted or required to be filed with the STCB in connection with an evidentiary hearing shall be directed to the Secretary of the STCB in the same manner specified under subsection (a) of this Section.
- c) Documents shall clearly show the title of the proceedings in connection with which they are filed.
- d)e) Except as otherwise provided, a copy of all documents including notices, motions, and petitions, shall be simultaneously filed with the designated hearing officer and the General Counsel~~Legal Advisor~~ to the ISBE (General Counsel) State Superintendent of Education at 100 North First Street, Springfield, Illinois 62777~~Room 607, 188 West Randolph Street, Chicago, Illinois, 60601.~~
- e)d) Documents shall be presented in letter-quality print on one side only of letter-sized~~typewritten or reproduced from typewritten copy on letter or legal size paper,~~ and one;~~and e) One~~ copy of each document filed shall be signed by the party or by the party's authorized representative.
- f) Computation of any period of time prescribed by this Part or any other applicable requirement~~section~~ shall begin with the first business day following the date of filing of the document with the State Superintendent of Education and shall run until the end of the last day, or the next following business day if the last day is a Saturday, Sunday or legal holiday. Notice requirements shall be construed to mean notice received, but proof that notice was sent by certified or registered mail at least four days prior to~~dispatched by means reasonably calculated to be received by~~ the prescribed date shall be prima facie proof that notice was timely received.

(Source: Amended at 29 Ill. Reg. 10146, effective June 30, 2005)

Section 475.30 Appearance of Parties

Any person entitled to participation in proceedings may appear as follows:

- a) A natural person may appear on his/her own behalf or by a representative designated in writing.
- b) An association or other business, nonprofit or government organization may appear by any bona fide officer, employee or representative designated in writing.

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- c) For hearings conducted under the jurisdiction of the ISBE or the State Superintendent of Education, a designated representative appearing on behalf of a party shall file a written notice of appearance with the hearing officer designated by the State Superintendent. For hearings conducted under the jurisdiction of the STCB, a designated representative appearing on behalf of a party shall file a written notice of appearance with the hearing officer designated by the STCB, the Secretary of the STCB, or the State Superintendent, as provided in Section 475.60 of this Part. ~~Hearing Officer.~~

(Source: Amended at 29 Ill. Reg. 10146, effective June 30, 2005)

Section 475.40 Notice of Hearing

- a) All hearings conducted under the jurisdiction of the ISBE or the State Superintendent shall be initiated by ~~the~~ issuance by the ISBE State Board of Education or the State Superintendent of Education, upon written request or upon the Superintendent's own motion, of a written Notice of Opportunity for Hearing, which shall be served upon all known parties to the hearing.
- b) All hearings conducted under the jurisdiction of the STCB shall be initiated when the STCB or the State Superintendent of Education issues a written Notice of Opportunity for Hearing. Such a notice shall be served upon all known parties to the hearing and shall be issued:
- 1) upon written request of a person entitled to a hearing; or
 - 2) upon presentation of evidence to the STCB or the State Superintendent demonstrating that a certificate should be suspended or revoked under Section 21-1 or 21-23 of the School Code [105 ILCS 5/21-1 or 21-23] or that an application for a certificate should be denied under Section 21-1 of the School Code.
- c) Any party receiving a Notice of Opportunity for Hearing must file a request for hearing within ten days after receipt. When such a request is received, a Notice of Hearing shall be issued by the entity under whose jurisdiction the hearing will be held.
- d)b) Requirements for Service of Notices

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- 1) Service of ~~either at the~~ Notice of Opportunity for Hearing or a Notice of Hearing shall be complete when it has been: served
 - A) ~~1)~~ served in person; or
 - B) ~~2)~~ served by certified or registered ~~deposited in the~~ United States Mail, ~~postage prepaid~~, addressed to the last known address of the person(s), partnership(s), association(s), or corporation(s) involved ~~not less than ten (10) days before the day designated for the hearing. Such notice shall be served by certified or registered mail.~~
- 2) A Notice of Hearing shall be served no fewer than 30 days before the day designated for the hearing.
- 3) The person serving the notice shall certify to the manner and date of service in the following form:

I certify that I served the foregoing by depositing a copy thereof in the United States Mail, postage prepaid, on _____, 20____, addressed to the the following at the address shown:

Signature

If service is made by a non-attorney, the certificate of manner and date of service shall be subscribed and sworn to before a notary public.

- e)e) A Notice of ~~Opportunity for~~ Hearing served under ~~paragraph (a)~~ of this Section shall include:
- 1) The time, place and nature of the hearing;
 - 2) The legal authority and jurisdiction under which the hearing is to be held;
 - 3) A reference to the particular section of the statutes and rules involved;

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- 4) A short and plain statement of the matters asserted, except where a more detailed statement is otherwise provided for by law; and
- 5) A designation of a ~~hearing officer~~Hearing Officer, if any, to preside over the hearing, and the ~~hearing officer's~~Hearing Officer's address.
- ~~f)~~e) A copy of a ~~Notice of Hearing~~notice of hearing served pursuant to ~~this Section paragraph (a) above~~ shall be referred to the ~~designated hearing officer or other designated individual~~Hearing Officer designated therein, together with the original complaint, application or report and any written request for a hearing filed pursuant to this Part.
- ~~g)~~e) Service of any document other than a notice upon any party may be made by personal delivery or by depositing it in the United States Mail, postage prepaid, addressed to the last known address of the party. The person serving the document shall certify to the manner and date of service as specified in subsection (d)(3) of this Section.
- 1) ~~The person serving the document shall certify to the manner and date of service in the following form:~~
- ~~I certify that I served the foregoing by depositing a copy thereof in the United States Mail, postage prepaid, on _____, 19____, addressed to the following at the address shown:~~
- _____
Signature
- 2) ~~If service is made by a non-attorney, the certificate of manner and date of service shall be subscribed and sworn to before a notary public.~~

(Source: Amended at 29 Ill. Reg. 10146, effective June 30, 2005)

Section 475.50 Motion and Answer

- a) ~~Any party receiving a Notice of Opportunity for Hearing must file a request for hearing within ten (10) days of receipt.~~ A written answer to a Notice of Hearing may be filed not later than seven ~~(7)~~ days prior to the date of the hearing. For hearings conducted under the jurisdiction of the ISBE or the State Superintendent of Education, all answers or motions preliminary to a hearing shall be

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presented to the State Superintendent or a designated ~~hearing officer~~Hearing Officer in accordance with Section 475.20 of ~~this Part~~these rules at least seven~~(7)~~ days prior to the date of the hearing. For hearings conducted under the jurisdiction of the STCB, all answers or motions preliminary to a hearing shall be presented to the Secretary of the STCB or a designated hearing officer in accordance with Section 475.20 of this Part at least seven days prior to the date of the hearing. Failure to file an answer shall be deemed a general denial of matters asserted.

- b) Unless made orally on the record during a hearing, or unless the ~~hearing officer~~Hearing Officer directs otherwise, a motion shall be in writing and shall be accompanied by any affidavits or other evidence relied upon, and, when appropriate, by a proposed order. For hearings conducted under the jurisdiction of the ISBE or the State Superintendent of Education, at least two copies of all such motions shall be filed with the General Counsel, Legal Advisor and one copy shall be filed with the hearing officer, Hearing Officer and at least one copy shall be served on each additional party, if any, to the hearing. For hearings conducted under the jurisdiction of the STCB, at least two copies of all motions shall be filed with the Secretary to the STCB, one copy shall be filed with the General Counsel, one copy shall be filed with the hearing officer, and at least one copy shall be served on each additional party, if any, to the hearing.
- c) Within seven~~(7)~~ days after service of a written motion, or such other period of time as the ~~hearing officer~~Hearing Officer may prescribe, owing to the complexity of the issues involved, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence.
- d) No oral argument will be heard on a motion unless the ~~hearing officer~~Hearing Officer directs otherwise. If oral argument is permitted, then the hearing officer shall issue an order setting a date, time, and place for such argument. A telephone conference may be scheduled. A written brief may be filed with a motion or an answer to a motion, stating the arguments and authorities relied upon.
- e) A written motion will be disposed of by written order, ~~with and on~~ notice ~~to~~ all parties.
- f) The ~~hearing officer~~Hearing Officer shall rule upon all motions, except that the ~~hearing officer~~Hearing Officer shall have no authority to dismiss or decide a hearing on the merits without granting all parties to the proceeding a right to be heard and to establish a record.

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- g) Unless otherwise ordered, the filing of an answer or motion shall not stay the proceeding or extend the time for the performance of any act.
- h) A party may participate in the proceeding without forfeiting any jurisdictional objection, if such objection is raised at or before the time the party files an answer or motion, or, if no answer or motion is made, before the commencement of the hearing.
- i) Additional Parties
- 1) In the interest of convenient, expeditious and complete determination of matters, the hearing officer~~Hearing Officer~~ may consolidate or sever hearing proceedings involving any number of parties; and may order additional parties to be joined.
 - 2) Upon timely written application, the hearing officer~~Hearing Officer~~ may permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when any~~either~~ of the following conditions is met:
 - A) The~~When the~~ party is so situated as to be adversely affected by a final order arising from the hearing; ~~or~~
 - B) The party has an unconditional statutory right to intervene in the proceedings; or
 - C) A~~When a~~ party's circumstances and the hearing proceeding have a question of law or fact in common.
 - 3) Two copies of a petition for intervention shall be filed with the General Counsel, Legal Advisor and one copy shall be filed with the hearing officer~~Hearing Officer~~, and one copy shall be served on each party, no later than 48 hours prior to the date set for hearing of matters set forth in the Notice of Hearing. The hearing officer~~Hearing Officer~~ may permit later intervention when there is good cause shown for the delay.
 - 4) An intervenor shall have all the rights of an original party, except that the hearing officer~~Hearing Officer~~ may, in the Order allowing intervention, provide that the party shall not raise issues which might more properly

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have been raised at an earlier stage of the proceeding, that the party shall not raise new issues or add new parties, or that in other respects the party shall not interfere with the conduct of the hearing, as justice and the avoidance of undue delay might require.

- j) A hearing may be postponed or continued for due cause by the hearing officer~~Hearing Officer~~ upon the hearing officer's~~Hearing Officer's~~ own motion or upon motion of a party to the hearing. Such motion of the party shall set forth facts attesting that the request for continuance is not for the purpose of delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repeated postponements or continuances so that the subject matter may be resolved expeditiously.

(Source: Amended at 29 Ill. Reg. 10146, effective June 30, 2005)

Section 475.60 Hearing Officer: Qualifications, Powers and Duties

- a) The State Superintendent or an attorney licensed to practice law in Illinois may act as a hearing officer to preside over a hearing and to exercise all the powers of a hearing officer enumerated in this Part. [5 ILCS 100/10-20]
- b) Appointment of Hearing Officer
- 1) When a hearing officer is to be appointed for a hearing conducted under the jurisdiction of the ISBE or the State Superintendent, the appointment shall be made by the State Superintendent.
- 2) When a hearing officer is to be appointed for a hearing conducted under the jurisdiction of the STCB, the STCB may either appoint the hearing officer or request that the State Superintendent appoint a hearing officer. At the direction of the STCB, a hearing officer may either preside over the hearing in the presence of the STCB or conduct an independent hearing. A hearing officer may also afford the STCB such legal counsel as it may require during the course of a hearing and until a final order is executed.
- c) A hearing officer~~Hearing Officer~~ designated to preside over a hearing shall have all powers necessary and appropriate to conduct a fair, full and impartial hearing, including the following:

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- 1) To administer oaths and affirmations;
 - 2) To rule upon offers of proof and receive relevant evidence;
 - 3) To exercise the power of the Superintendent, and issue subpoenas under any applicable statute;
 - 4) To provide for discovery and determine its scope;
 - 5) To initiate, schedule, and conduct a pre-hearing conference;
 - 6) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
 - 7) ~~6)~~ To consider and rule upon procedural requests;
 - 8) To rule upon motions, objections, and evidentiary questions;
 - 9) ~~7)~~ To hold conferences for the settlement or simplification of the issues;
 - 10) ~~8)~~ To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;
 - 11) ~~9)~~ To make decisions in accordance with the appropriate Act, any rules adopted pursuant to that Act ~~and Rules~~, this Part, and the Illinois Administrative Procedure Act [5 ILCS 100].
- d) ~~b)~~ *Except in the disposition of matters ~~that~~~~which~~ are authorized by law to be entertained or disposed of on an ex parte basis, no agency employee or hearing officer ~~Hearing Officer~~ shall, after notice of hearing pursuant to this Part, communicate directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or representative except upon notice and opportunity for all parties to participate. However, an agency member may communicate with other members of the agency and an agency member or hearing officer ~~Hearing Officer~~ may have the aid and advice of one or more personal assistants. [5 ILCS 100/10-60]*
- e) ~~e)~~ Disqualification:

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- 1) When a ~~hearing officer~~Hearing Officer deems himself or herself disqualified to preside over a particular hearing, he or she shall withdraw~~therefrom~~ by notice on the record directed to the State Superintendent of Education for hearings conducted under the jurisdiction of the ISBE or the State Superintendent or to the Secretary of the STCB for hearings conducted under the jurisdiction of the STCB.
- 2) The ISBE, State Superintendent, or STCB, on its own motion or the motion of any party, may disqualify a hearing officer for bias or conflict of interest as provided under Section 10-30(b) of the Illinois Administrative Procedure Act [5 ILCS 100/10-30(b)], for physical or mental incapacity, or for persistent failure to meet statutory or other timelines. A party's motion shall be supported by affidavits setting forth the alleged grounds for disqualification. A motion by the ISBE, the State Superintendent, or the STCB shall state the alleged grounds for disqualification. Any party who deems a Hearing Officer, for any reason, especially for reasons of bias, prejudice, or possible prior involvement, to be disqualified to preside over a particular hearing may file with the Legal Advisor a motion to disqualify and remove the Hearing Officer, such motion to be supported by affidavits setting forth the alleged grounds for disqualification. The Legal Advisor shall refer the motion, together with affidavits, including any affidavits of the Legal Advisor, to the State Superintendent of Education who shall rule upon the motion.

f) d) Failure~~of~~ or Refusal to Appear or to Obey the Rulings of a Presiding Hearing Officer:

- 1) Contumacious or improper conduct at any hearing before the ~~hearing officer~~Hearing Officer shall be grounds for exclusion from the ~~hearing~~Hearing.
- 2) If a witness or a party refuses to answer a question after being directed to do so or refuses to obey an order to provide or to permit discovery, the ~~hearing officer~~Hearing Officer may make such orders with regard to the refusal as are just and appropriate, including an order denying the application or complaint of a party or regulating the contents of the record of the ~~hearing~~Hearing.

g) Exclusion

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At the request of any party, the hearing officer shall exclude all witnesses from the hearing room, except that, at any time, one representative of each party in addition to counsel shall be allowed to be present, even if that representative is also a witness. Individuals who are not witnesses are not affected by this subsection (g).

- h)e) On any procedural question not regulated by this Part~~these rules~~, the appropriate Act ~~and Rules~~, or the Illinois Administrative Procedure Act, a hearing officer~~Hearing Officer~~ may be guided to the extent practicable by any pertinent provisions of the Illinois Supreme Court Rules or the Illinois Code of Civil Procedure [735 ILCS 5].

(Source: Amended at 29 Ill. Reg. 10146, effective June 30, 2005)

Section 475.70 Pre-Hearing Conferences and Consent Orders

- a) Convening a Conference: Upon the hearing officer's~~Hearing Officer's~~ own motion or the motion of a party, the hearing officer~~Hearing Officer~~ may direct the parties or their counsel to meet with the hearing officer~~Hearing Officer~~ for a conference to consider:
- 1) Simplification of the issues;
 - 2) Necessity or desirability of amendment to documents for purposes of clarification, simplification or limitation;
 - 3) Stipulations, admissions of fact and of contents and authenticity of documents;
 - 4) Limitation of the number of witnesses;
 - 5) Propriety of prior mutual exchange between and among the parties who have prepared testimony or exhibits; and
 - 6) Such other matters as may tend to expedite disposition of the proceedings and assure a just conclusion thereof.
- b) Record of Conference: The hearing officer~~Hearing Officer~~ shall make an order that~~which~~ recites the action taken at the conference, the amendments allowed to

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any documents ~~that which~~ have been filed, and the agreements made between the parties as to any of the matters considered. This order shall limit, and which limits the issues for hearing to those not disposed of by admissions or agreements, and such an order, when entered, shall control~~controls~~ the subsequent course of the hearing unless modified at the hearing to prevent manifest injustice.

- c) Consent Orders: At any time before the reception of evidence in any hearing or during any hearing, a reasonable opportunity may be afforded to permit negotiations by the parties or an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceedings. The allowance of such opportunity and the duration thereof shall be in the discretion of the hearing officer~~presiding Hearing Officer~~ after consideration of the nature of the proceedings, the requirements of the public interest, the representations of the parties, and the probability of an agreement ~~that which~~ will result in a just disposition of the issues involved.
- 1) Any agreement containing consent findings and rules or orders disposing of a proceeding shall also provide:
 - A) That the rule or order shall have the same force and effect as if made after a full hearing;
 - B) That the entire record on which any rule or order may be based shall consist solely of the application or complaint and the agreement;
 - C) A waiver of any further procedural steps before the hearing officer~~Hearing Officer for the State Superintendent of Education~~; and
 - D) Waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.
 - 2) On or before the expiration of the time granted for negotiations, the parties or their counsel may:
 - A) Submit the proposed agreement in writing to the hearing officer~~presiding Hearing Officer~~ for his or her consideration; or

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- B) Inform the ~~hearing officer~~presiding Hearing Officer that agreement cannot be reached.
- 3) In the event that an agreement contains consent findings and a rule or order is submitted in the time allowed ~~therefore~~, the hearing officer, upon written approval of the final decision-maker, i.e., the ISBE, the STCB, or the State Superintendent,~~presiding Hearing Officer~~ may accept ~~the such~~ agreement by issuing a decision based upon the agreed findings in accordance with Section 10-25(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-25(c)].

(Source: Amended at 29 Ill. Reg. 10146, effective June 30, 2005)

Section 475.80 Depositions and Discovery

- a) For reasons of unavailability or for other good cause shown, the testimony of any witness may be taken by deposition. Depositions may be taken orally, or upon written interrogatories before any person designated by the hearing officer~~presiding Hearing Officer~~ and having the power to administer oaths.
- b) Any party desiring to take the deposition of a witness may make application in writing to the hearing~~presiding Hearing Officer~~, setting forth:
- 1) The reasons why such deposition should be taken;
 - 2) The time when, the place where, and the name and post office address of the person before whom the deposition is to be taken;
 - 3) The name and address of each witness; and
 - 4) The subject matter concerning which each witness is expected to testify.
- c) Such notice as the hearing officer~~presiding Hearing Officer~~ may order shall be given by the party taking the deposition to every other party.
- d) Each witness testifying upon deposition shall be sworn, and the parties not calling this witness shall have the right to cross-examination. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read to the witness, subscribed to by the witness and certified by the officer before whom the deposition is taken. Thereafter, the officer shall seal the

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deposition, with two copies thereof, in an envelope and mail the same by registered mail to the ~~hearing officer~~presiding Hearing Officer. Subject to such objections to the questions and answers as were noted at the time of taking, the deposition may be read and offered in evidence by the party taking it as against any party who was present, was represented at the taking of the deposition, ~~or who~~ had due notice of the taking of the deposition~~hereof~~. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance exist at the time of the hearing.

- e) Whenever appropriate to a just disposition of any issue in a hearing, the ~~hearing officer~~presiding Hearing Officer may allow discovery by any other appropriate procedure, such as by written interrogatories upon a party, by requests for admission, or by entry for inspection of the employment or place of employment involved.

(Source: Amended at 29 Ill. Reg. 10146, effective June 30, 2005)

Section 475.90 Hearings

- a) All hearings shall be public unless required by statute to be otherwise.
- b) The following shall be the order of proceedings of all hearings, subject to modification by the ~~hearing officer~~presiding Hearing Officer for good cause:
- 1) Presentation, argument, and disposition of motions preliminary to a hearing on the merits of the matters raised in the notice or answer;
 - 2) Presentation of complainant's opening statement;
 - 3) Presentation of respondent's opening statement;
 - 4) Complainant's case;
 - 5) Respondent's case;
 - 6) Complainant's rebuttal, if any;
 - 7) Respondent's rebuttal, if any;
 - 8) Complainant's closing statement;

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- ~~9)7)~~ Respondent's closing statement;
- ~~10)8)~~ Presentation and argument of all motions prior to final order;
- ~~11)9)~~ Presentation of written briefs if required or allowed by the hearing officer~~presiding Hearing Officer~~;
- ~~12)10)~~ Filing of proposed findings of fact and conclusions of law and recommendations of the hearing officer~~Hearing Officer~~.
- c) The complainant shall have the burden of proof except in cases under the jurisdiction of the STCB pursuant to Section 21-1 of the School Code where the STCB must determine the good character of an applicant, in which case the applicant has the burden of proof.
- d) Failure of a party to appear on the date set for hearing or failure to proceed as ordered by the hearing officer may, at the sole discretion of the hearing officer~~Hearing Officer shall~~ constitute a default. In the case of a default, the hearing officer~~The Hearing Officer shall~~thereupon enter such findings, opinions, and recommendations as are appropriate based on~~under~~ the pleadings and such evidence ~~as is~~ received into the record.
- e) Evidence:
- 1) A party shall be entitled to present the party's case or defense and, oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for full and true disclosure of the facts. *Any oral or documentary evidence may be received but a presiding hearing officer~~Hearing Officer~~ may exclude evidence that~~which~~ is irrelevant, immaterial or unduly repetitious. The rules of evidence and privileges applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where excluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced, a hearing officer~~Hearing Officer~~ may allow evidence to be received in written form.* [5 ILCS 100/10-40]

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- 2) The testimony of a witness shall be under oath or affirmation administered by the ~~hearing officer~~~~presiding~~ Hearing Officer.
- 3) If a party objects to the admission or rejection of any examination, or to the failure to limit its scope, the party shall state briefly the grounds for ~~the~~~~such~~ objection. Rulings on all objections shall appear in the record. When the admissibility of disputed evidence depends upon an arguable interpretation of substantive law, the ~~hearing officer~~~~Hearing Officer~~ shall admit such evidence subject to the right of the ~~hearing officer~~~~Hearing Officer~~ to strike ~~the~~~~such~~ evidence from the record either during the hearing or as a part of the findings of fact and conclusions of law if the ~~hearing officer~~~~Hearing Officer~~ determines that it was improperly admitted, in which case it shall not be considered in making findings of fact, conclusions of law and recommendations.
- 4) Formal exception to an adverse ruling is not required.
- f) *Official notice may be taken of any material fact not appearing in evidence in the record if the Circuit Courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the ~~STCB's or the ISBE's~~~~State Board of Education's~~ or its employees' specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed, including any staff memoranda or data and they shall be afforded an opportunity to contest the facts so noticed. The agency's expertise, technical competence and specialized knowledge may be utilized in the evaluation of the evidence. [5 ILCS 100/10-40(c)]*
- g) Hostile or Adverse Witness:
 - 1) If the ~~hearing officer~~~~Hearing Officer~~ determines that a witness is hostile or unwilling or adverse, the witness may be examined by the party calling the witness as if under cross-examination.
 - 2) The party calling an occurrence witness, upon the showing that the party called the witness in good faith and is surprised by the witness' testimony, may impeach the witness by proof of prior inconsistent statements.
- h) *Oral proceedings or any part thereof shall be recorded [5 ILCS 100/10-35(b)] by a certified court reporter ~~or by a mechanical recording device~~. Such records shall*

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be transcribed either:

- 1) upon written application filed with the reporter or ~~hearing officer~~Hearing Officer by any party and upon the payment of fees at the rate provided in the agreement with the reporter or as established by the State Superintendent of Education, or
 - 2) upon receipt of summons in ~~administrative review~~Administrative Review or an order of a court, with payment of fees when allowed or required by statute. Any recording or transcription will be retained through and including the time allotted for appeal, revision, re-hearing, or other manner of review, prior to final disposition as provided for by the ~~ISBE, State Board of Education,~~ the State Superintendent of Education, ~~STCB, the hearing officer, or Hearing Officer~~ or by law.
- i) The official record of ~~each hearing conducted~~all hearings pursuant to this Part~~these rules~~ shall consist of the items enumerated in Section 10-35(a) of the Illinois Administrative Procedure Act [5 ILCS 100/10-35(a)]:-
- 1) ~~All pleadings, including all notices and responses thereto;~~
 - 2) ~~Evidence received;~~
 - 3) ~~A statement of matters officially noticed;~~
 - 4) ~~Offers of proof or objections and rulings thereon;~~
 - 5) ~~Proposed findings and acceptance;~~
 - 6) ~~Any decision, opinion or report of the Hearing Officer;~~
 - 7) ~~All staff memoranda or data submitted to the Hearing Officer or members of the agency in connection with their consideration of the case; and~~
 - 8) ~~Any communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act, but such communication shall not form the basis for any findings of fact.~~
- j) The ~~hearing officer~~Hearing Officer may require or allow parties to submit written briefs to the ~~hearing officer~~Hearing Officer within ~~21~~ten (10) days after the close

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of the hearing or such other reasonable time as the ~~hearing officer~~Hearing Officer shall determine consistent with the ~~ISBE's, the STCB's, State Board of Education's~~ or the State Superintendent of Education's responsibility for expeditious decision.

(Source: Amended at 29 Ill. Reg. 10146, effective June 30, 2005)

Section 475.100 Orders

- a) ~~The provisions of this subsection (a) shall apply in those cases where the hearing officer is authorized by statute or rule to act as the personal representative of the State Superintendent of Education and in those cases where no hearing officer has been designated by the entity authorized to conduct the hearing and that entity or its representative is acting as the hearing officer, as provided in Section 475.15 of this Part.~~Hearing Officer's Findings, Opinions and Decisions:
- 1) The ~~hearing officer's~~Hearing Officer's findings and ~~conclusions~~Opinions shall be in writing and shall include findings of fact and conclusions of law ~~or opinions~~ separately stated ~~and in conformance with Section 10-50(a) of the Illinois Administrative Procedure Act [5 ILCS 100/10-50(a)]~~when possible. Findings of fact shall be based exclusively on the evidence presented at the hearing or known to all parties, including matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a statement of the underlying, supporting facts. Each conclusion of law shall be supported by authority or reasoned opinion.
 - 2) ~~The hearing officer~~Where authorized by statute or rule to act as the personal representative of the State Superintendent of Education, the ~~Hearing Officer~~ shall, in addition to the findings of fact and opinion required by ~~subsection (a)(1) of this Section~~above, render a decision and issue an order upon consideration of the record as a whole or such portion thereof as may be supported by competent, material and substantial evidence. The decision in the case will be the decision for and of the ~~ISBE, State Board of Education or~~ the State Superintendent of Education, ~~or the STCB, as applicable and shall become effective immediately upon the execution of the Order by the Hearing Officer or as otherwise specified within the order or an applicable statute.~~ The parties shall be immediately notified ~~either personally or by mail, postage prepaid, certified or registered, addressed to the last known address of each party. A copy of the order shall be delivered or mailed to each party and to each attorney of~~

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~~record.~~

- b) The provisions of this subsection (b) shall apply in those cases where the final decision is required to be rendered by an individual or entity other than the hearing officer, including all hearings conducted under the jurisdiction of the State Teacher Certification Board pursuant to Section 21-1 or Section 21-23 of the School Code for which hearing officers are appointed. ~~Order of the State Board of Education or the State Superintendent of Education:~~
- 1) Hearing Officer's Recommendations:
 - A) Initial Recommendations: The hearing officer shall prepare proposed findings of fact and conclusions of law and make recommendations by way of a proposed order that complies with Section 10-45 of the Illinois Administrative Procedure Act. ~~Where the State Board of Education or the State Superintendent of Education is required by law or by delegation to be the sole, personal acting officer, the Hearing Officer shall, in lieu of decision and order under paragraph (a)(2) above, and in addition to the findings and opinions required by paragraph (a)(1), make recommendations by way of proposal for decision. These~~ Such recommendations shall be made upon consideration of the record as a whole or such portion thereof as may be supported by competent, material and substantial evidence.
 - B) Opportunity to ~~File~~ file Exceptions: The hearing officer~~Hearing Officer~~ shall forward a copy of the proposed findings of fact, conclusions of law~~opinions~~ and recommendations to each party of record in the hearing and each party of record shall be allowed 21~~ten (10)~~ days in which to submit exceptions to the findings, conclusion~~opinions~~ and recommendations of the hearing officer~~Hearing Officer~~ and to present a brief to the hearing officer~~Hearing Officer~~ in support of the position of the party.
 - C) Final Recommendations: ~~The Hearing Officer shall then prepare and submit to the State Board of Education or to the State Superintendent of Education a final set of finding, opinions and recommendations which, if a party submitted proposed finding of fact which might control the decision or order, shall include a ruling upon each proposed finding of fact together with the~~

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~~exceptions and briefs pursuant to paragraph (b)(1)(B) of this Section.~~

- 2) ~~Preparation of Final Order of the State Board of Education or the State Superintendent of Education:~~ Upon the ~~hearing officer's~~Hearing Officer's recommendations, the ~~ISBE, the STCB, State Board of Education~~ or the State Superintendent of Education shall review the record and the ~~hearing officer's~~Hearing Officer's findings, ~~conclusions, opinions~~ and recommendations, together with exceptions thereto and briefs in support thereof, and shall either:
- A) request the hearing officer to prepare a final set of findings and conclusions and a recommended order for approval and issuance;
- B) issue a final~~an~~ order, within 90 days unless an extension is agreed to by the parties, that complies with Section 10-50 of the Illinois Administrative Procedure Act [5 ILCS 100/10-50] and as set forth by applicable statutes ~~within a reasonable time.~~
- c) Effectiveness of Orders: The final decision in ~~each~~the case will become effective immediately upon the execution of the ~~order~~Order or as specified by applicable statute. The parties shall be immediately notified either personally or by mail, postage paid, certified or registered, addressed to the last known address of each party. A copy of the order shall be delivered or mailed to each party and to the party's attorney of record. Each order shall indicate whether it is final and, if so, that it is subject to the Administrative Review Law [735 ILCS 5/Art. III]. [5 ILCS 100/10-50(b)]

(Source: Amended at 29 Ill. Reg. 10146, effective June 30, 2005)

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- 1) Heading of the Part: Hearings Before the State Teacher Certification Board
- 2) Code Citation: 23 Ill. Adm. Code 480
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 480.10 | Repeal |
| 480.20 | Repeal |
| 480.30 | Repeal |
| 480.40 | Repeal |
| 480.50 | Repeal |
| 480.60 | Repeal |
| 480.70 | Repeal |
| 480.80 | Repeal |
| 480.90 | Repeal |
- 4) Statutory Authority: 5 ILCS 100/5-10(a)(i)
- 5) Effective Date of Repealer: June 30, 2005
- 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 repealer, 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 11, 2005; 29 Ill. Reg. 3527
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.
- 13) Will this repealer replace any emergency repealer currently in effect? No
- 14) Are there any amendments pending on this Part? No

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED REPEALER

15) Summary and Purpose of Repealer:

Part 475 of the State Board's rules (Contested Cases and Other Formal Hearings) is being generally updated in this issue of the *Illinois Register* and also revised to incorporate a number of provisions that were previously found in Part 480. These two Parts cover similar topics and, therefore, lend themselves to being combined. Part 480 is, therefore, being repealed.

16) Information and questions regarding this Adopted Repealer shall be directed to:

Name: Jon Furr
General Counsel
Address: Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001
Telephone: (217) 782-5270

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Construction and Filing of Accident and Health Insurance Policy Forms
- 2) Code Citation: 50 Ill. Adm. Code 2001
- 3)

| | |
|--------------------------|-------------------------|
| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
| 2001.1 | New Section |
| 2001.3 | New Section |
| 2001.10 | Amendment |
- 4) Statutory Authority: Implementing Sections 143, 355, 356a and Articles IX and XX and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, Articles IX and XX, and 401].
- 5) Effective Date of Amendments: July 1, 2005
- 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 principal office of the Division of Insurance and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: February 14, 2005; 29 Ill. Reg. 2101
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:
 - a) In the table of contents, under the new Subpart B heading, "Section" has been added.
 - b) In Section 2001.1, on the first line, "policies, and disability" has been added following "health". On the second line, a comma following "policies" and "certificates" has been added. Also, "regardless of whether they provide disability benefits" has been added following "certificates".

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- c) In Section 2001.3, on the second line, a comma has been added following “State” and also after “carrier”. On the third line, “or of disability,” has been added following “services”.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: The amendments reorganized this Part so that its requirements were categorized to apply to either individual, group or to both individual and group policies. In particular, the amendments prohibit all such policies from containing language reserving the sole discretion to interpret policy provisions with the insurer. The legal effect of discretionary clauses is to change the standard for judicial review of benefit determinations from one of reasonableness to arbitrary and capricious. By prohibiting such clauses, the amendments aid the consumer by ensuring that benefit determinations are made under the reasonableness standard.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Chuck Budinger, Unit Supervisor
L/A & Health Compliance
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

(217) 782-4572

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL
REGULATION~~INSURANCE~~

SUBCHAPTER Z: ACCIDENT AND HEALTH INSURANCE

PART 2001

CONSTRUCTION AND FILING OF ACCIDENT AND HEALTH
INSURANCE POLICY FORMSSUBPART A: PROVISIONS APPLICABLE TO INDIVIDUAL AND GROUP POLICIES

Section

2001.1Applicability2001.3Discretionary Clauses ProhibitedSUBPART B: PROVISIONS APPLICABLE TO INDIVIDUAL POLICIES

Section

2001.10

Applicability

2001.20

Construction of Accident and Health Insurance Policy Forms

2001.30

Filing of Policy Forms

AUTHORITY: Implementing Sections 143, 355, 356a and Articles IX and XX and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, 132 et seq., 156 et seq. and 401].

SOURCE: Filed and effective April 1, 1952; codified at 7 Ill. Reg. 3471; amended at 20 Ill. Reg. 14405, effective October 25, 1996; amended at 29 Ill. Reg. 10172, effective July 1, 2005.

SUBPART A: PROVISIONS APPLICABLE TO INDIVIDUAL AND GROUP POLICIESSection 2001.1 Applicability

This Subpart is applicable to all individual and group accident and health policies, disability insurance policies, and group accident and health certificates, regardless of whether they provide disability benefits.

(Source: Added at 29 Ill. Reg. 10172, effective July 1, 2005)

Section 2001.3 Discretionary Clauses Prohibited

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

No policy, contract, certificate, endorsement, rider application or agreement offered or issued in this State, by a health carrier, to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services or of a disability may contain a provision purporting to reserve discretion to the health carrier to interpret the terms of the contract, or to provide standards of interpretation or review that are inconsistent with the laws of this State.

(Source: Added at 29 Ill. Reg. 10172, effective July 1, 2005)

SUBPART B: PROVISIONS APPLICABLE TO INDIVIDUAL POLICIES**Section 2001.10 Applicability**

This Subpart Part shall apply to:

- a) Individual accident and health policy, certificate, endorsement, rider and application forms filed with this Department by both foreign and domestic companies with respect to Section 143, Article IX and Article XX of the Illinois Insurance Code [215 ILCS 5/143, Art. IX and Art. XX~~132 et seq. and 156 et seq.~~]
- b) This Part shall also apply to individual policy, certificate, endorsement, rider and application forms ~~which are~~ filed in accordance with Section 356a of the Illinois Insurance Code [215 ILCS 5/356a].
- c) The filing procedure for accident and health forms as required by Section 355 of the Illinois Insurance Code [215 ILCS 5/355].
- d) The filing procedure for accident and health insurance policy forms prescribed by 50 Ill. Adm. Code 916.

(Source: Amended at 29 Ill. Reg. 10172, effective July 1, 2005)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill. Adm. Code 113
- 3)

| | |
|-------------------------|------------------------|
| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
| 113.253 | Amendment |
| 113.260 | Amendment |
- 4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].
- 5) Effective Date of Amendments: July 5, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain any 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 Proposed Amendments was Published in Illinois Register: January 28, 2005; 29 Ill. Reg. 1499
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: No substantive changes were made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 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: A grant adjustment is an allowance for Aid to the Aged, Blind or Disabled cases that ensures that the amount of the Supplemental Security Income (SSI) increase from July 1977 and later will be available to clients. To comply with federal regulations, this rulemaking increases the grant adjustment and sheltered care/personal or nursing care rate amounts by the amount of the increase in

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Social Security and SSI benefits. These changes increase the AABD Grant Adjustment Allowance and Sheltered Care/Personal or Nursing Care rates by \$15.00, which is the amount of the January 2005 SSA/SSI benefit increase.

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

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

(217) 785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

PART 113
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section

- 113.1 Description of the Assistance Program
- 113.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 113.9 Client Cooperation
- 113.10 Citizenship
- 113.20 Residence
- 113.30 Age
- 113.40 Blind
- 113.50 Disabled
- 113.60 Living Arrangement
- 113.70 Institutional Status
- 113.80 Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 113.100 Unearned Income
- 113.101 Budgeting Unearned Income
- 113.102 Budgeting Unearned Income of Applicants Receiving Income on Date of Application And/Or Date of Decision
- 113.103 Initial Receipt of Unearned Income
- 113.104 Termination of Unearned Income
- 113.105 Unearned Income In-Kind
- 113.106 Earmarked Income
- 113.107 Lump Sum Payments and Income Tax Refunds
- 113.108 Protected Income (Repealed)
- 113.109 Earned Income (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 113.110 Budgeting Earned Income (Repealed)
- 113.111 Protected Income
- 113.112 Earned Income
- 113.113 Exempt Unearned Income
- 113.114 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
- 113.115 Initial Employment
- 113.116 Budgeting Earned Income For Contractual Employees
- 113.117 Budgeting Earned Income For Non-contractual School Employees
- 113.118 Termination of Employment
- 113.120 Exempt Earned Income
- 113.125 Recognized Employment Expenses
- 113.130 Income From Work/Study/Training Programs
- 113.131 Earned Income From Self-Employment
- 113.132 Earned Income From Roomer and Boarder
- 113.133 Earned Income From Rental Property
- 113.134 Earned Income In-Kind
- 113.139 Payments from the Illinois Department of Children and Family Services
- 113.140 Assets
- 113.141 Exempt Assets
- 113.142 Asset Disregard
- 113.143 Deferral of Consideration of Assets
- 113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)
- 113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)
- 113.156 Court Ordered Child Support Payments of Parent/Step-Parent
- 113.157 Responsibility of Sponsors of Non-citizens Entering the Country Prior to 8/22/96
- 113.158 Responsibility of Sponsors of Non-citizens Entering the Country On or After 08/22/96
- 113.160 Assignment of Medical Support Rights

SUBPART D: PAYMENT AMOUNTS

- Section
- 113.245 Payment Levels for AABD
- 113.246 Personal Allowance
- 113.247 Personal Allowance Amounts
- 113.248 Shelter
- 113.249 Utilities and Heating Fuel
- 113.250 Laundry

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

| | |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| 113.251 | Telephone |
| 113.252 | Transportation, Lunches, Special Fees |
| 113.253 | Allowances for Increase in SSI Benefits |
| 113.254 | Nursing Care or Personal Care in Home Not Subject to Licensing |
| 113.255 | Sheltered Care/Personal or Nursing Care in a Licensed Group Care Facility |
| 113.256 | Shopping Allowance |
| 113.257 | Special Allowances for Blind and Partially Sighted (Blind Only) |
| 113.258 | Home Delivered Meals |
| 113.259 | AABD Fuel and Utility Allowances By Area |
| 113.260 | Sheltered Care: Personal or Nursing Care Rates |
| 113.261 | Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing Facilities, DMHDD Facilities and All Other Licensed Medical Facilities |
| 113.262 | Meeting the Needs of an Ineligible Dependent with Client's Income |
| 113.263 | Service Animals |
| 113.264 | Refugees Ineligible for SSI |

SUBPART E: OTHER PROVISIONS

| | |
|---------|------------------------------------------------------------------------------------|
| Section | |
| 113.300 | Persons Who May Be Included In the Assistance Unit |
| 113.301 | Grandfathered Cases |
| 113.302 | Interim Assistance (Repealed) |
| 113.303 | Special Needs Authorizations |
| 113.304 | Retrospective Budgeting |
| 113.305 | Budgeting Schedule |
| 113.306 | Purchase and Repair of Household Furniture (Repealed) |
| 113.307 | Property Repairs and Maintenance |
| 113.308 | Excess Shelter Allowance |
| 113.309 | Limitation on Amount of AABD Assistance to Recipients from Other States (Repealed) |
| 113.320 | Redetermination of Eligibility |
| 113.330 | Attorney's Fees for VA Appellants (Repealed) |

SUBPART F: INTERIM ASSISTANCE

| | |
|---------|--------------------------------------------------|
| Section | |
| 113.400 | Description of the Interim Assistance Program |
| 113.405 | Pending SSI Application (Repealed) |
| 113.410 | More Likely Than Not Eligible for SSI (Repealed) |
| 113.415 | Non-Financial Factors of Eligibility (Repealed) |

DEPARTMENT OF HUMAN SERVICES

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- 113.420 Financial Factors of Eligibility (Repealed)
- 113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
- 113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
- 113.435 Medical Eligibility (Repealed)
- 113.440 Attorney's Fees for SSI Applicants (Repealed)
- 113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
- 113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
- 113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III 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; emergency expired January 28, 1979; preemptory amendment at 2 Ill. Reg. 46, p. 44, 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; 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; 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,

DEPARTMENT OF HUMAN SERVICES

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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. 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 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988;

DEPARTMENT OF HUMAN SERVICES

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emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995; emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of a 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of

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150 days; emergency amendment at 23 Ill. Reg. 579, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1607, effective January 20, 1999; amended at 23 Ill. Reg. 5548, effective April 23, 1999; amended at 23 Ill. Reg. 6052, effective May 4, 1999; amended at 23 Ill. Reg. 6425, effective May 15, 1999; amended at 23 Ill. Reg. 6935, effective May 30, 1999; amended at 23 Ill. Reg. 7887, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8650, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10161, effective August 3, 1999; amended at 23 Ill. Reg. 13852, effective November 19, 1999; amended at 24 Ill. Reg. 2328, effective February 1, 2000; amended at 24 Ill. Reg. 11622, effective July 18, 2000; amended at 24 Ill. Reg. 13394, effective August 18, 2000; amended at 25 Ill. Reg. 5326, effective March 30, 2001; amended at 26 Ill. Reg. 179, effective January 1, 2002; amended at 26 Ill. Reg. 8532, effective May 31, 2002; amended at 26 Ill. Reg. 13521, effective September 3, 2002; amended at 27 Ill. Reg. 7252, effective April 7, 2003; amended at 28 Ill. Reg. 11139, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 11366, effective July 21, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12469, effective August 20, 2004, for a maximum of 150 days; emergency expired January 16, 2005; amended at 29 Ill. Reg. 648, effective December 16, 2004; amended at 29 Ill. Reg. 5703, effective April 11, 2005; amended at 29 Ill. Reg. 10176, effective July 5, 2005.

SUBPART D: PAYMENT AMOUNTS

Section 113.253 Allowances for Increase in SSI Benefits

- a) An allowance for ~~\$400.90~~~~385.90~~ is authorized for all AABD cases as a "grant adjustment". A grant adjustment is an allowance that ensures that the amount of the SSI increase from July 1977 and later will be available to clients.
- b) EXCEPTIONS: For clients whose assistance payments include an allowance for Sheltered Care or Care Not Subject to Licensing a "grant adjustment" of \$10 is authorized. Individuals residing in long term group care facilities do not receive any "grant adjustment".

(Source: Amended at 29 Ill. Reg. 10176, effective July 5, 2005)

Section 113.260 Sheltered Care: Personal or Nursing Care Rates

| Group A Counties | Needs Assessment | Group B Counties |
|---------------------|---------------------|---------------------|
| <u>976.00</u> | 0-7 | <u>989.00</u> |

DEPARTMENT OF HUMAN SERVICES

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| | | |
|--------------------|----|--------------------|
| 873.55 | | 885.55 |
| 981.00 | 8 | 996.00 |
| 878.55 | | 891.55 |
| 987.00 | 9 | 1002.00 |
| 883.55 | | 897.55 |
| 992.00 | 10 | 1009.00 |
| 888.55 | | 903.55 |
| 998.00 | 11 | 1016.00 |
| 893.55 | | 909.55 |
| 1003.00 | 12 | 1022.00 |
| 898.55 | | 915.55 |
| 1009.00 | 13 | 1029.00 |
| 903.55 | | 921.55 |
| 1014.00 | 14 | 1035.00 |
| 908.55 | | 927.55 |
| 1020.00 | 15 | 1042.00 |
| 913.55 | | 933.55 |
| 1025.00 | 16 | 1049.00 |
| 918.55 | | 939.55 |
| 1031.00 | 17 | 1055.00 |
| 923.55 | | 945.55 |
| 1036.00 | 18 | 1062.00 |
| 928.55 | | 951.55 |
| 1042.00 | 19 | 1068.00 |
| 933.55 | | 957.55 |
| 1047.00 | 20 | 1075.00 |
| 938.55 | | 963.55 |

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

| | | |
|-------------------------------------|----|-------------------------------------|
| <u>1053.00</u> 943.55 | 21 | <u>1082.00</u> 969.55 |
| <u>1058.00</u> 948.55 | 22 | <u>1088.00</u> 975.55 |
| <u>1064.00</u> 953.55 | 23 | <u>1095.00</u> 981.55 |
| <u>1069.00</u> 958.55 | 24 | <u>1101.00</u> 987.55 |

- a) Group A Counties are counties other than Cook, DuPage, Kane, Lake and Will.
- b) Group B Counties are Cook, DuPage, Kane, Lake and Will.
- c) Rate includes shelter factor and approved activity and social rehabilitation programs.

(Source: Amended at 29 Ill. Reg. 10176, effective July 5, 2005)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Practice in Administrative Hearings
- 2) Code Citation: 89 Ill. Adm. Code 104
- 3)

| | |
|-------------------------|------------------------|
| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
| 104.101 | Amendment |
| 104.104 | Amendment |
- Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: June 30, 2005
- 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 materials 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: February 18, 2005; 29 Ill. Reg. 2635
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences Between Proposal and Final Version: No changes were made to the proposed 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 these amendments replace any emergency amendments currently in effect? Yes
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These amendments respond to Public Act 93-1061 regarding the enforcement of an unpaid arrearage or delinquency upon the emancipation of a child covered by an order for child support.

In related amendments at 89 Ill. Adm. Code 160, revisions are being made on administrative support orders to advise the obligor that if there is an unpaid arrearage or delinquency owed upon emancipation of the covered child, the periodic amount required

DEPARTMENT OF PUBLIC AID

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for current support will continue as an obligation until the amount due is paid in full. Other changes affect income withholding notices that are served upon the obligor's payor concerning withholdings related to unpaid arrearages or delinquencies.

Sections 104.101 and 104.104 address hearing provisions concerning administrative support orders and petitions to contest income withholding. The changes to these Sections add necessary cross-references to the amendments at 89 Ill. Adm. Code 160, as described above.

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

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER a: GENERAL PROVISIONSPART 104
PRACTICE IN ADMINISTRATIVE HEARINGS

SUBPART A: ASSISTANCE APPEALS

| Section | |
|---------|------------------------------------------|
| 104.1 | Assistance Appeals |
| 104.10 | Initiation of Appeal Process |
| 104.11 | Pre-Appeal Review |
| 104.12 | Notice of Hearing |
| 104.20 | Conduct of Hearings |
| 104.21 | Representation |
| 104.22 | Appellant Participation in Hearing |
| 104.23 | Evidentiary Requirements |
| 104.30 | Subpoenas |
| 104.35 | Amendment of Appeal |
| 104.40 | Consolidation of Appeals |
| 104.45 | Postponement or Continuation of Hearings |
| 104.50 | Withdrawal of Appeal |
| 104.55 | Closing of Hearing Record |
| 104.60 | Dismissal of Appeal |
| 104.70 | Final Administrative Decision |
| 104.80 | Public Aid Committee |

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

| Section | |
|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 104.100 | Support Order, Responsible Relative and Joint Payee Petitions |
| 104.101 | Petition for Hearing |
| 104.102 | Conduct of Administrative Support Hearings |
| 104.103 | Conduct of Hearings to Contest the Determination of Past-Due Support or of Share of Jointly-Owned Federal or State Income Tax Refunds or Other Joint Federal or State Payments |
| 104.104 | Conduct of Other Hearings |
| 104.105 | Conduct of Hearings on Petitions for Release from Administrative Paternity Orders |

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104.110 Conduct of Hearings on Joint Owner's Contest of Levy of Jointly-Owned Personal Property

SUBPART C: MEDICAL VENDOR HEARINGS

Section

| | |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 104.200 | Applicability |
| 104.202 | Definitions |
| 104.204 | Notice of Denial of An Application |
| 104.206 | Notice of Intent to Recover Money |
| 104.207 | Notice of Contested Paternity Hearing |
| 104.208 | Notice of Intent to Terminate, Suspend or Not Renew Provider Agreement |
| 104.209 | Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to, or Failure to Comply with a Subpoena or Warrant from, a State Licensing Agency and to Take Disciplinary Action |
| 104.210 | Right to Hearing |
| 104.211 | Notice of Termination or Suspension Pursuant to Exclusion by the Department of Health and Human Services |
| 104.212 | Prior Factual Determinations |
| 104.213 | Demand for Judicial Determination of the Existence of the Father and Child Relationship |
| 104.215 | Notice of Formal Conference |
| 104.216 | Formal Conference on Recovery of Money |
| 104.217 | Purpose of Formal Conference |
| 104.220 | Notice of Hearing |
| 104.221 | Issues at Hearings |
| 104.225 | Legal Counsel |
| 104.226 | Appearance of Attorney or Other Representative |
| 104.230 | Notice, Service and Proof of Service |
| 104.231 | Form of Papers |
| 104.235 | Discovery |
| 104.240 | Conduct of Hearings |
| 104.241 | Amendments |
| 104.242 | Motions |
| 104.243 | Subpoenas |
| 104.244 | Burden of Proof |
| 104.245 | Witness at Hearings |
| 104.246 | Evidence at Hearings |
| 104.247 | Cross-Examination |
| 104.248 | Disqualification of Hearing Officers |

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| | |
|---------|----------------------------------------------------------------|
| 104.249 | Genetic Testing in Contested Paternity Hearings |
| 104.250 | Official Notice |
| 104.255 | Computer Generated Documents |
| 104.260 | Recommendation of Peer Review Committee |
| 104.270 | Time Limits for Hearings |
| 104.271 | Continuances and Extensions |
| 104.272 | Withholding of Payments During Pendency of Proceedings |
| 104.273 | Continuation of Payments During Pendency of Proceedings |
| 104.274 | Denial of Payments for Services During Pendency of Proceedings |
| 104.280 | Record of Hearings |
| 104.285 | Failure to Appear or Proceed |
| 104.290 | Recommended Decision |
| 104.295 | Director's Decision |

SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST
SKILLED NURSING FACILITIES AND INTERMEDIATE CARE
FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

| Section | |
|---------|-------------------------------------------------------|
| 104.300 | Authority |
| 104.302 | Definitions |
| 104.304 | Department Actions Against Nursing Homes Facilities |
| 104.310 | Certification |
| 104.320 | Joint Administrative Hearing |
| 104.330 | Facilities Certified Under Both Medicare and Medicaid |

SUBPART E: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS

| Section | |
|---------|----------------------------------------------------------------------------|
| 104.400 | Suspected Intentional Violation of the Program |
| 104.410 | Advance Notice of Administrative Disqualification Hearing |
| 104.420 | Postponement of Hearing |
| 104.430 | Administrative Disqualification Hearing Procedures |
| 104.440 | Failure to Appear |
| 104.450 | Participation While Awaiting a Hearing |
| 104.460 | Consolidation of Administrative Disqualification Hearing with Fair Hearing |
| 104.470 | Administrative Disqualification Hearing Decision and Notice of Decision |
| 104.480 | Appeal Procedure |

SUBPART F: INCORPORATION BY REFERENCE

DEPARTMENT OF PUBLIC AID

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Section

104.800 Incorporation by Reference

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 151, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 26, 1978; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; preemptory amendment at 3 Ill. Reg. 11, p. 38, effective March 1, 1979; amended at 4 Ill. Reg. 21, p.80, effective May 8, 1980; preemptory amendment at 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14977, effective November 7, 1997; emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2393, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11734, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 2418, effective January 27, 2000; amended at 25 Ill. Reg. 5351, effective April 1, 2001; amended at 26 Ill. Reg. 9836, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11022, effective July 1, 2002, for a maximum of 150 days; amended at

DEPARTMENT OF PUBLIC AID

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26 Ill. Reg. 12306, effective July 26, 2002; amended at 26 Ill. Reg. 17743, effective November 27, 2002; amended at 27 Ill. Reg. 5853, effective March 24, 2003; amended at 27 Ill. Reg. 13771, effective August 1, 2003; amended at 28 Ill. Reg. 2735, effective February 1, 2004; emergency amendment at 29 Ill. Reg. 2735, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10187, effective June 30, 2005.

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section 104.101 Petition for Hearing

- a) Any client or responsible relative aggrieved by an administrative support order entered, or any responsible relative aggrieved by a determination of past-due support or determination of the share of jointly-owned funds made by the Department may petition for a hearing for release from or modification of the order or to contest the determination.
- b) The petition under subsection (a) above shall be filed within 30 days after the date of mailing of such order or determination. The day immediately subsequent to the mailing of the order or determination shall be considered as the first day; and the day such petition is received by the Department shall be considered as the last day in computing the 30 day appeal period.
- c) Any responsible relative in a case with an administrative support order may petition the Department for a hearing to contest withholding, or to correct a term contained in an income withholding notice or a National Medical Support Notice, or to modify, suspend or terminate an income withholding notice or a National Medical Support Notice for the reasons provided in 89 Ill. Adm. Code 160.75(d), (e), ~~and~~ (j) and (n).
- d) The petition to modify, suspend, terminate, or correct a term contained in an income withholding notice may be filed at any time and the petition to contest withholding or the National Medical Support Notice, shall be filed within 20 days after the date of service of the copy of the income withholding notice or the National Medical Support Notice upon the responsible relative. The day immediately subsequent to the day of service of the copy of the notice shall be considered as the first day; and the day such petition is received by the Department shall be considered as the last day in computing the 20 day appeal period.
- e) The Department shall, upon receipt of a petition, provide for a hearing to be held,

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

except as provided in Section 104.103(b).

(Source: Amended at 29 Ill. Reg. 10187, effective June 30, 2005)

Section 104.104 Conduct of Other Hearings

- a) Hearings on petitions to contest withholding, or to modify, suspend, terminate, or correct a term contained in an administrative income withholding notice or an administrative National Medical Support Notice, shall be governed by Section 104.102, except that subsections (a)(2) and (c) shall not apply, and the following terms as used therein are redefined:
- 1) "administrative support order" shall mean an administrative income withholding notice or an administrative National Medical Support Notice.
 - 2) "liability" shall mean the accuracy of the income withholding notice or the National Medical Support Notice, or the accuracy of the delinquency amount stated in the income withholding notice based upon the administrative support order, or the force and effect to be given to such income withholding notice, each as referred to for judicial orders for withholding in 89 Ill. Adm. Code 160.75(d), (e), ~~and~~ (j) and (n), or for judicial National Medical Support Notices under 89 Ill. Adm. Code 160.75(m).
- b) The Department shall limit any relief granted to the types of relief authorized for use within judicial orders for withholding in 89 Ill. Adm. Code 160.75(d), (e), ~~and~~ (j) and (n), and for judicial National Medical Support Notices under 89 Ill. Adm. Code 160.75(m).

(Source: Amended at 29 Ill. Reg. 10187, effective June 30, 2005)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Number: 120.510 Adopted Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 92-0163
- 5) Effective Date of Amendment: June 30, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials 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: February 18, 2005; 29 Ill. Reg. 2638
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences Between Proposal and Final Version: No changes were made to the proposed 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 amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

| <u>Sections</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|-----------------|------------------------|------------------------------------|
| 120.60 | Amendment | April 29, 2005 (29 Ill. Reg. 5881) |
| 120.310 | Amendment | May 6, 2005 (29 Ill. Reg. 6213) |
- 15) Summary and Purpose of Amendment: These amendments pertain to the Health Benefits for Workers with Disabilities (HBWD) program, under which persons with disabilities who return to work or whose earnings increase, and who would otherwise lose

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medical assistance, are allowed to pay premiums and in doing so "buy-in" for coverage under the Department's Medical Assistance Program. The Medicaid Buy-In Program Revolving Fund was created under Public Act 92-163 as a special fund in the State Treasury consisting of paid premiums related to HBWD.

Pursuant to Public Act 92-163, these amendments establish the uses for which the Department may expend funds from the Medicaid Buy-In Program Revolving Fund. The rule changes give the Department broad authority to use the funds to support administration of HBWD.

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

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 120
MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section

120.10 Eligibility For Medical Assistance
120.11 MANG(P) Eligibility
120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women
120.14 Presumptive Eligibility for Children
120.20 MANG(AABD) Income Standard
120.30 MANG(C) Income Standard
120.31 MANG(P) Income Standard
120.32 KidCare Parent Coverage Waiver Eligibility and Income Standard
120.40 Exceptions To Use Of MANG Income Standard
120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section

120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children
120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD –
MANG(AABD) and All Other Licensed Medical Facilities
120.62 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings Under 89 Ill. Adm.
Code 140.643
120.63 Department of Mental Health and Developmental Disabilities (DMHDD)
Approved Home and Community Based Residential Settings
120.64 MANG(P) Cases
120.65 Department of Mental Health and Developmental Disabilities (DMHDD)
Licensed Community – Integrated Living Arrangements

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SUBPART D: MEDICARE PREMIUMS

| | |
|---------|--------------------------------------------------------------------------------------------------------------------|
| Section | |
| 120.70 | Supplementary Medical Insurance Benefits (SMIB) Buy-In Program |
| 120.72 | Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB) |
| 120.73 | Eligibility for Medicaid Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB) |
| 120.74 | Qualified Medicare Beneficiary (QMB) Income Standard |
| 120.75 | Specified Low-Income Medicare Beneficiary (SLIB) Income Standards |
| 120.76 | Hospital Insurance Benefits (HIB) |

SUBPART E: RECIPIENT RESTRICTION PROGRAM

| | |
|---------|-------------------------------|
| Section | |
| 120.80 | Recipient Restriction Program |

SUBPART F: MIGRANT MEDICAL PROGRAM

| | |
|---------|------------------------------------|
| Section | |
| 120.90 | Migrant Medical Program (Repealed) |
| 120.91 | Income Standards (Repealed) |

SUBPART G: AID TO THE MEDICALLY INDIGENT

| | |
|---------|----------------------------------------------|
| Section | |
| 120.200 | Elimination Of Aid To The Medically Indigent |
| 120.208 | Client Cooperation (Repealed) |
| 120.210 | Citizenship (Repealed) |
| 120.211 | Residence (Repealed) |
| 120.212 | Age (Repealed) |
| 120.215 | Relationship (Repealed) |
| 120.216 | Living Arrangement (Repealed) |
| 120.217 | Supplemental Payments (Repealed) |
| 120.218 | Institutional Status (Repealed) |
| 120.224 | Foster Care Program (Repealed) |
| 120.225 | Social Security Numbers (Repealed) |
| 120.230 | Unearned Income (Repealed) |
| 120.235 | Exempt Unearned Income (Repealed) |
| 120.236 | Education Benefits (Repealed) |

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| | |
|---------|----------------------------------------------------------------------------------|
| 120.240 | Unearned Income In-Kind (Repealed) |
| 120.245 | Earmarked Income (Repealed) |
| 120.250 | Lump Sum Payments and Income Tax Refunds (Repealed) |
| 120.255 | Protected Income (Repealed) |
| 120.260 | Earned Income (Repealed) |
| 120.261 | Budgeting Earned Income (Repealed) |
| 120.262 | Exempt Earned Income (Repealed) |
| 120.270 | Recognized Employment Expenses (Repealed) |
| 120.271 | Income From Work/Study/Training Program (Repealed) |
| 120.272 | Earned Income From Self-Employment (Repealed) |
| 120.273 | Earned Income From Roomer and Boarder (Repealed) |
| 120.275 | Earned Income In-Kind (Repealed) |
| 120.276 | Payments from the Illinois Department of Children and Family Services (Repealed) |
| 120.280 | Assets (Repealed) |
| 120.281 | Exempt Assets (Repealed) |
| 120.282 | Asset Disregards (Repealed) |
| 120.283 | Deferral of Consideration of Assets (Repealed) |
| 120.284 | Spend-down of Assets (AMI) (Repealed) |
| 120.285 | Property Transfers (Repealed) |
| 120.290 | Persons Who May Be Included in the Assistance Unit (Repealed) |
| 120.295 | Payment Levels for AMI (Repealed) |

SUBPART H: MEDICAL ASSISTANCE – NO GRANT

| | |
|---------|-----------------------------------------------------------------------------|
| Section | |
| 120.308 | Client Cooperation |
| 120.309 | Caretaker Relative |
| 120.310 | Citizenship |
| 120.311 | Residence |
| 120.312 | Age |
| 120.313 | Blind |
| 120.314 | Disabled |
| 120.315 | Relationship |
| 120.316 | Living Arrangements |
| 120.317 | Supplemental Payments |
| 120.318 | Institutional Status |
| 120.319 | Assignment of Rights to Medical Support and Collection of Payment |
| 120.320 | Cooperation in Establishing Paternity and Obtaining Medical Support |
| 120.321 | Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining |

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| | |
|---------|------------------------------------------------------------------------------------------------------|
| | Medical Support |
| 120.322 | Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support |
| 120.323 | Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause |
| 120.324 | Health Insurance Premium Payment (HIPP) Program |
| 120.325 | Health Insurance Premium Payment (HIPP) Pilot Program |
| 120.326 | Foster Care Program |
| 120.327 | Social Security Numbers |
| 120.330 | Unearned Income |
| 120.332 | Budgeting Unearned Income |
| 120.335 | Exempt Unearned Income |
| 120.336 | Education Benefits |
| 120.338 | Incentive Allowance |
| 120.340 | Unearned Income In-Kind |
| 120.342 | Child Support and Spousal Maintenance Payments |
| 120.345 | Earmarked Income |
| 120.346 | Medicaid Qualifying Trusts |
| 120.347 | Treatment of Trusts |
| 120.350 | Lump Sum Payments and Income Tax Refunds |
| 120.355 | Protected Income |
| 120.360 | Earned Income |
| 120.361 | Budgeting Earned Income |
| 120.362 | Exempt Earned Income |
| 120.363 | Earned Income Disregard – MANG(C) |
| 120.364 | Earned Income Exemption |
| 120.366 | Exclusion From Earned Income Exemption |
| 120.370 | Recognized Employment Expenses |
| 120.371 | Income From Work/Study/Training Programs |
| 120.372 | Earned Income From Self-Employment |
| 120.373 | Earned Income From Roomer and Boarder |
| 120.375 | Earned Income In Kind |
| 120.376 | Payments from the Illinois Department of Children and Family Services |
| 120.379 | Provisions for the Prevention of Spousal Impoverishment |
| 120.380 | Assets |
| 120.381 | Exempt Assets |
| 120.382 | Asset Disregard |
| 120.383 | Deferral of Consideration of Assets |
| 120.384 | Spend-down of Assets (AABD MANG) |
| 120.385 | Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed) |

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NOTICE OF ADOPTED AMENDMENT

- 120.386 Property Transfers Occurring On or Before August 10, 1993
120.387 Property Transfers Occurring On or After August 11, 1993
120.390 Persons Who May Be Included In the Assistance Unit
120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later
120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
120.395 Payment Levels for MANG (Repealed)
120.399 Redetermination of Eligibility
120.400 Twelve Month Eligibility for Persons under Age 19

SUBPART I: SPECIAL PROGRAMS

Section

- 120.500 Health Benefits for Persons with Breast or Cervical Cancer
120.510 Health Benefits for Workers with Disabilities
120.520 SeniorCare
120.530 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
120.540 Illinois Healthy Women Program
120.TABLE A Value of a Life Estate and Remainder Interest
120.TABLE B Life Expectancy

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and 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; amended 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.

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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 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; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; preemptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25,

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1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150

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days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a

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maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005.

SUBPART I: SPECIAL PROGRAMS

Section 120.510 Health Benefits for Workers with Disabilities

- a) To be eligible for medical assistance under Health Benefits for Workers with Disabilities, an individual must meet all of the following eligibility requirements:
- 1) Cooperate in establishing eligibility as described in Section 120.308.
 - 2) Meet citizenship/immigration status as described in Section 120.310.
 - 3) Meet residency requirements as described in Section 120.311.
 - 4) Be disabled as described in Section 120.314.
 - 5) Assign rights to medical support and collection of payment as described in Section 120.319.
 - 6) Furnish a Social Security number(s) as described in Section 120.327.
 - 7) Be 16 through 64 years of age.
 - 8) Have countable monthly income at or below 200 percent of the Federal Poverty Level.
 - 9) Have non-exempt assets at or below \$10,000.
 - 10) Be employed pursuant to subsection (l)(1) of this Section or qualify for an exception as described in subsection (l)(2) of this Section.
 - 11) Pay a premium pursuant to subsections (m) and (n) of this Section.
- b) An individual shall not be determined eligible if the individual is otherwise eligible for medical assistance without a spenddown.

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- c) An individual who is otherwise eligible for medical assistance with a spenddown, who meets the requirements of this Section, shall have the option of enrolling in medical assistance with a spenddown or Health Benefits for Workers with Disabilities.
- d) An individual's eligibility shall be terminated if the individual no longer meets the requirements of this Section.
- e) Certain assets shall be exempt from consideration in determining eligibility in accordance with Section 120.381.
- f) The earned and unearned income of the following persons shall be counted when determining eligibility, except as specified in subsections (g), (h) and (i) of this Section.
 - 1) Income of the individual.
 - 2) Income of the spouse.
 - 3) Unearned income of a dependent child under the age of 18 years who is included in the income standard (see Section 120.20) because it is to the advantage of the individual.
- g) Monthly unearned income shall be counted as described in Sections 120.330 through 120.345 and Sections 120.350, 120.355, 120.371 and 120.376.
- h) Monthly earned income shall be considered as described in Sections 120.360, 120.361, 120.371, 120.372, 120.373 and 120.375.
- i) The Department shall exempt earned income as provided in Section 120.362(a) and (b)(1). In addition, work related expenses that are allowed as deductions for AABD MANG as described in Section 120.370 shall be deducted.
- j) Application Process
 - 1) Individuals can apply by completing an application provided by the Department and submitting it to an address specified by the Department.
 - 2) The application must meet all requirements found at 89 Ill. Adm. Code

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110.10(a), (c), (e) and (i).

- k) Authorization of Medical Assistance Eligibility
 - 1) Medical assistance coverage will not be provided for any month for which eligibility is established unless a premium is paid in accordance with subsections (m) and (n) of this Section.
 - 2) Subject to subsections (k)(2)(A), (B) and (C) of this Section, the applicant may choose to receive medical assistance for months prior to the initial month of prospective eligibility as determined in accordance with subsections (m) and (n) of this Section.
 - A) Eligibility will be effective no earlier than the third month before the month of application if the applicant received covered medical services during that period and would have been eligible if he or she had applied for Health Benefits for Workers with Disabilities.
 - B) Months of backdated coverage selected must be consecutive and must be continuous with the initial month of prospective eligibility.
 - C) Monthly premiums must be paid for all the months of coverage.
- l) Individuals Considered Employed
 - 1) For purposes of this program, an individual shall be considered employed if the individual provides verification that current payment under the Federal Insurance Contributions Act (FICA) or Illinois Municipal Retirement Fund (IMRF) has been made on behalf of the individual.
 - 2) Under the following circumstances, an individual may be enrolled in this program without providing evidence of employment as described in subsection (l)(1) of this Section:
 - A) Individuals who are not employed at the time of application, but who can verify that they will be employed within 60 days, may be enrolled but will not be considered eligible until they begin employment and pay the appropriate premium in accordance with subsections (m) and (n) of this Section.

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- B) Individuals who become unable to work for medical reasons after enrollment in this program who wish to remain in the program. Such individuals:
 - i) Must report to the Department within 30 days after the first day that they were unable to work.
 - ii) Must provide a physician's written statement that they are unable to work, but that the anticipated date for the return to work is within 90 days after the first day they were unable to work.
 - iii) Must pay premiums in accordance with subsections (m) and (n) of this Section for the months during which they do not work.
 - C) Individuals who cease employment for any other reason may continue to be enrolled for 30 days after the employment ends provided they pay premiums in accordance with subsections (m) and (n) of this Section for the period during which they do not work.
- 3) Eligibility shall be terminated:
- A) If an individual determined to be employed according to subsection (1)(2)(A) of this Section does not provide evidence of employment pursuant to subsection (1)(1) of this Section within 30 days after enrollment.
 - B) If an individual is unable to work for medical reasons, as described in subsection (1)(2)(B) of this Section, for 90 days or more.
 - C) If an individual ceases employment for any other reason (subsection (1)(2)(C) of this Section) and does not obtain new employment within 30 days after cessation of employment.
- m) Premiums
- 1) The Department must receive payment of the monthly premium for an applicant's initial prospective month of eligibility before the applicant can

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be enrolled in this program. If payment of the premium is received by the 20th day of the month, the initial month of prospective eligibility shall begin the first day of the following month. (For example, if the premium payment is received on February 20, coverage shall begin on March 1. If the premium payment is received after February 20, coverage shall begin on April 1.)

- 2) Premiums for months of backdated coverage must be paid within 90 days after the date of the notice of eligibility approval.
 - 3) Subsequent premiums are due on the last day of the month prior to the month of coverage.
 - 4) If payment of the premium is not received in full by the end of the month following the due date of the premium, coverage will terminate effective the end of the second month following the due date and collection action may be initiated by the Department for the unpaid premiums for months of coverage.
- n) Determination of Premium Amount
- 1) Premiums shall be based upon an individual's combined gross unearned and countable earned income as determined at the point of application or review or redetermination of eligibility.
 - 2) The Department shall reset a premium prospectively based on verified income.
 - 3) Premium amounts shall be established as set forth in the following monthly premium table.

| Countable Earned Income | Gross Unearned Income | | | | |
|-------------------------------|-----------------------|-------------------|-------------------|--------------------|----------------|
| | \$0 to \$250 | \$251 to \$500 | \$501 to \$750 | \$751 to \$1000 | Over \$1000 |
| \$0 - \$250 | --- | \$19 | \$38 | \$56 | \$ 75 |
| \$250 - \$500 | \$ 6 | \$25 | \$44 | \$63 | \$ 81 |
| \$501 - \$750 | \$13 | \$31 | \$50 | \$69 | \$ 88 |
| \$751 - \$1000 | \$19 | \$38 | \$56 | \$75 | \$ 94 |

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Over \$1000 \$25 \$44 \$63 \$81 \$100

- o) Medicaid Buy-In Program Revolving Fund (see 305 ILCS 5/12-10.6)
- 1) The Medicaid Buy-In Revolving Fund consists of premiums paid by eligible individuals under this Section.
- 2) Monies in the Fund may be used to pay costs incurred by the Department for:
- A) Administering the Health Benefits for Workers with Disabilities (HBWD) program, including, but not limited to, staff, equipment, travel, outreach activities and other operating costs.
- B) Personal assistance services (PAS) provided at an individual's work site. PAS under the HBWD program is limited to individuals who do not already receive PAS, have a need for such services on the basis of a disability as described in Section 120.314, and, except for their income and non-exempt assets, would be eligible for the Community Care Program as described at 89 Ill. Adm. Code 240. The need, amount and duration of PAS will be assessed through a determination of need process.

(Source: Amended at 29 Ill. Reg. 10195, effective June 30, 2005)

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- 1) Heading of the Part: Child Support Enforcement
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3) Section Numbers: Adopted Action:
 160.60 Amendment
 160.75 Amendment
- Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 93-1061
- 5) Effective Date of Amendments: June 30, 2005
- 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 materials 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: February 18, 2005; 29 Ill. Reg. 2675
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences Between Proposal and Final Version:

 In Section 160.60(f)(1) and (3), "administrative order" has been changed to "administrative support order".

 In Section 160.60(f)(2)(C), "administrative paternity order" has been changed to "administrative support ~~paternity~~ order".
- 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 these amendments replace any emergency amendments currently in effect? Yes
- 14) Are there any other amendments pending on this Part? Yes

SectionsProposed ActionIllinois Register Citation

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| | | |
|--------|-----------|------------------------------------|
| 160.30 | Amendment | April 29, 2005 (29 Ill. Reg. 5898) |
| 160.70 | Amendment | March 25, 2005 (29 Ill. Reg. 4459) |
| 160.70 | Amendment | April 29, 2005 (29 Ill. Reg. 5898) |
| 160.75 | Amendment | March 25, 2005 (29 Ill. Reg. 4459) |

- 15) Summary and Purpose of Amendments: These amendments respond to Public Act 93-1061 regarding the enforcement of an arrearage or delinquency upon the emancipation of a child covered by an order for child support.

Changes to Section 160.60 revise administrative support orders to advise the obligor that if there is an unpaid arrearage or delinquency owed upon emancipation of the covered child, the periodic amount required for current support will continue as an obligation until the amount due is paid in full.

Section 160.75 is being revised to provide changes on income withholding notices that are served upon the obligor's payor concerning withholdings related to unpaid arrearages or delinquencies.

Related changes concerning petitions for hearings and conduct of hearings are also being adopted at 89 Ill. Adm. Code 104.

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

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER f: COLLECTIONSPART 160
CHILD SUPPORT ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section

- 160.1 Incorporation by Reference
- 160.5 Definitions
- 160.10 Child Support Enforcement Program
- 160.12 Administrative Accountability Process
- 160.15 Application Fee for IV-D Non-TANF Cases
- 160.20 Assignment of Rights to Support
- 160.25 Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section

- 160.30 Cooperation With Support Enforcement Program
- 160.35 Good Cause for Failure to Cooperate with Support Enforcement
- 160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement
- 160.45 Suspension of Child Support Enforcement Upon a Claim of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS

Section

- 160.60 Establishment of Support Obligations
- 160.61 Uncontested and Contested Administrative Paternity and Support Establishment
- 160.62 Cooperation with Paternity Establishment and Continued Eligibility
Demonstration Program (Repealed)
- 160.65 Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section

- 160.70 Enforcement of Support Orders

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- 160.71 Credit for Payments Made Directly to the Title IV-D Client
160.75 Withholding of Income to Secure Payment of Support
160.77 Certifying Past-Due Support Information or Failure to Comply with a Subpoena
or Warrant to State Licensing Agencies
160.80 Amnesty – 20% Charge (Repealed)
160.85 Diligent Efforts to Serve Process
160.88 State Case Registry

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

- Section
160.90 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

- Section
160.95 State Disbursement Unit
160.100 Distribution of Child Support for TANF Recipients
160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who
Continue to Receive Child Support Enforcement Services
160.120 Distribution of Child Support Collected While the Client Was an AFDC or TANF
Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is
Cancelled
160.130 Distribution of Intercepted Federal Income Tax Refunds
160.132 Distribution of Child Support for Non-TANF Clients
160.134 Distribution of Child Support For Interstate Cases
160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases
160.138 Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

- Section
160.140 Statement of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

- Section
160.150 Department Review of Distribution of Child Support for TANF Recipients
160.160 Department Review of Distribution of Child Support for Former AFDC or TANF
Recipients

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AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3, and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998; emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective December 1, 1999; amended at 24 Ill. Reg. 2380, effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000; emergency amendment at 26 Ill. Reg. 11092, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17822, effective November 27, 2002; amended at 27 Ill. Reg. 4732, effective February 25, 2003; amended at 27 Ill. Reg. 7842, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 12139, effective July 11, 2003, for a maximum of 150 days; amended

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at 27 Ill. Reg. 18891, effective November 26, 2003; amended at 28 Ill. Reg. 4712, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 10225, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15591, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 2743, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10211, effective June 30, 2005.

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS**Section 160.60 Establishment of Support Obligations**

- a) Definitions
- 1) "FSS" means any Family Support Specialist performing assigned duties, his supervisory staff and any other person assigned responsibility by the Director of the Department.
 - 2) "Service" or "Served" means notice given by personal service, certified mail, restricted delivery, return receipt requested, or by any method provided by law for service of summons. (See Sections 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-203 and 2-206].)
 - 3) "Support Statutes" means the following:
 - A) Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X];
 - B) The Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5];
 - C) The Non-Support Punishment Act [750 ILCS 16];
 - D) The Uniform Interstate Family Support Act [750 ILCS 22];
 - E) The Illinois Parentage Act of 1984 [750 ILCS 45]; and
 - F) Any other statute in another state which provides for child support.
 - 4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered.

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- 5) "Child's needs" means the cost of raising a child as detailed by either:
- A) the custodial parent's statement of the associated costs, including, but not limited to, providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care; or
 - B) the Department's standard for the costs of raising a child as calculated by averaging the estimated annual expenditures on a child by husband-wife families for all income levels as reported in Table 1 "Estimated annual expenditures on a child by husband-wife families, overall United States" of the USDA Expenditures on Children and Families Annual Report (United States Center for Nutrition Policy and Promotion, 3101 Park Center Drive, Room 1034, Alexandria, Virginia 22302) (May 2003). This standard takes into account average actual costs of providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care in a manner consistent with health and well being as set forth in this Part.
 - C) The formula used to calculate the Department's monthly Standard of Need is: Total Average Expenditures, divided by the number of people in the household, divided by the number of years from birth until the age of majority (18 years of age in Illinois), divided by two (obligation for one parent) equals the monthly support obligation.
- b) Responsible Relative Contact
- 1) Timing and Purpose of Contact
 - A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.
 - B) The purpose of contact and interview shall be to obtain relevant facts, including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.

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- 2) At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the names and birthdates of the persons for whom support is sought or other information identifying such persons, such as a prior court number;
 - C) that the responsible relative has a legal obligation to support the named persons;
 - D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and
 - E) that the responsible relative should bring specified information regarding his income and resources to the interview.
- 3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.

c) Determination of Financial Ability

- 1) In cases handled under subsection (d) of this Section, the Family Support Specialist shall determine the amount of child support and enter an administrative support order on the following basis:

| Number of Children | Percent of Responsible Relative's Net Income |
|--------------------|----------------------------------------------|
| 1 | 20% |
| 2 | 28% |
| 3 | 32% |
| 4 | 40% |
| 5 | 45% |
| 6 or more | 50% |

- A) "Net Income" is the total of all income from all sources, minus the

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following deductions:

- i) Federal income tax (properly calculated withholding or estimated payments);
 - ii) State income tax (properly calculated withholding or estimated payments);
 - iii) Social Security (FICA payments);
 - iv) Mandatory retirement contributions required by law or as a condition of employment;
 - v) Union dues;
 - vi) Dependent and individual health/hospitalization insurance premiums;
 - vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
 - viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
 - ix) Medical expenditures necessary to preserve life or health; and
 - x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.
- B) The deductions in subsections (c)(1)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders which contain provisions for an automatic increase in the support obligation upon termination of such payment period.
- 2) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall determine the minimum amount of child support as follows:

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| Number of Children | Percent of Responsible Relative's Net Income |
|--------------------|----------------------------------------------|
| 1 | 20% |
| 2 | 28% |
| 3 | 32% |
| 4 | 40% |
| 5 | 45% |
| 6 or more | 50% |

- A) "Net Income" is the total of all income from all sources, minus the following deductions:
- i) Federal income tax (properly calculated withholding or estimated payments);
 - ii) State income tax (properly calculated withholding or estimated payments);
 - iii) Social Security (FICA payments);
 - iv) Mandatory retirement contributions required by law or as a condition of employment;
 - v) Union dues;
 - vi) Dependent and individual health/hospitalization insurance premiums;
 - vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
 - viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
 - ix) Medical expenditures necessary to preserve life or health; and
 - x) Reasonable expenditures for the benefit of the child and the

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other parent, exclusive of gifts.

- B) The deductions in subsections (c)(2)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.
- C) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:
- i) the financial resources and needs of the child;
 - ii) the financial resources and needs of the custodial parent;
 - iii) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;
 - iv) the physical and emotional condition of the child, and his educational needs; and
 - v) the financial resources and needs of the non-custodial parent.
- D) Each order requiring support that deviates from the guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.
- 3) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the amount of child support due in accord with Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505].
- 4) All orders for support shall include a provision for the health care coverage of the child. In all cases where health insurance coverage is not

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being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter support, orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost or indicating what alternative arrangement for health insurance coverage is being provided. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.

- 5) When proceeding under subsection (d) of this Section, the Department shall, in any event, notwithstanding other provisions of this subsection (c) and regardless of the amount of the responsible relative's net income, order the responsible relative to pay child support of at least \$10.00 per month.
- 6) In cases where the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's needs as defined by subsection (a)(5)(A) or (B) of this Section.
- 7) The final order in all cases shall state the support level in dollar amounts.
- 8) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving cash assistance in Illinois, the Department, when proceeding under subsection (d) of this Section, shall order, or, when proceeding under subsection (e) of this Section, shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives. In TANF cases, the Department shall order, when proceeding under subsection (d) of this Section, or, when proceeding under subsection (e) of this Section, shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the responsible relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].
- 9) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the

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responsible relative to notify the Department, within seven days:

- A) of any new address of the responsible relative;
 - B) of the name and address of any new employer or source of income of the responsible relative;
 - C) of any change in the responsible relative's Social Security Number;
 - D) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and
 - E) if so, the policy name and number and the names of persons covered under the policy.
- 10) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.
- 11) The Department shall enter administrative support orders, or request the court to enter support orders, that include a statement that if there is an unpaid arrearage or delinquency equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, then the periodic amount required to be paid for current support of that child immediately prior to that date shall automatically continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency.
- ~~12)11)~~ The Department shall enter administrative support orders, or request the court to enter support orders, that include provisions for retroactive support when appropriate.
- A) In cases handled under subsection (d) of this Section, the

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Department shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties' separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock).

- B) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock), unless, in cases where the child was born out of wedlock, the hearing officer, after having examined the factors set forth in Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505] decides that another date is more appropriate.
 - C) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the date retroactive support is to commence in accord with Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X], Sections 510 and 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510 and 505], and Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14].
- d) Administrative Process
- 1) Use of Administrative Process
 - A) Unless otherwise directed by the Department, the FSS shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
 - i) presumed paternity as set forth in Section 5 of the Illinois Parentage Act of 1984 [750 ILCS 45/5] and support is sought from one or both parents;

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- ii) alleged paternity and support is sought from the mother;
 - iii) an administrative paternity order entered under Section 160.61 and support is sought from the man determined to be the child's father, or from the mother, or both;
 - iv) an establishment of parentage in accordance with Section 6 of the Illinois Parentage Act of 1984 [750 ILCS 45/6]; and
 - v) an establishment of parentage under the laws of another state, and support is sought from the child's father, or from the mother, or both.
- B) In addition to those items specified in subsection (b)(2) of this Section, the notice of support obligation shall inform the responsible relative of the following:
- i) that the responsible relative may be required to pay retroactive support as well as current support; and
 - ii) that in its initial determination of child support under subsection (c) of this Section, the Department will only consider factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and
 - iii) that the Department will enter an administrative support order based only on those factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and
 - iv) that in order for the Department to consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and
 - v) that both the client and the responsible relative have a right

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to request a de novo hearing within 30 days after the mailing or delivery of an administrative support order, at which time a Department hearing officer may consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]; and

- vi) that unless the client and/or the responsible relative requests a de novo hearing within 30 days after the order's mailing or delivery, the administrative support order will become a final enforceable order of the Department; and
 - vii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.
- 2) The FSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) of this Section when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein. The FSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the relative's current net income (unless the relative provides necessary information to determine net income for the prior period) to the support guidelines in accordance with subsection (c) of this Section.
- 3) Failure to Appear
- A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the FSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(D) of this Section. The terms of the order shall be based upon the needs of the child for whom support is sought,

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as defined by subsection (a)(5) of this Section. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by law with a notice of support obligation.

- B) The FSS may issue a subpoena to a responsible relative who fails to appear for interview, or who appears and furnishes income information, when the FSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:
 - i) financial ability, as determined from the guidelines contained in subsection (c) of this Section, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) of this Section; or
 - ii) income exceeds that reported by the relative.
 - C) The FSS will not issue a subpoena under subsection (d)(3)(B) of this Section where the information from the Title IV-D client, the responsible relative's employer or other source concerning the relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.
 - D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him pursuant to subsection (d)(3)(B) of this Section, the FSS may enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A) of this Section, and may then, after investigation and determination of the responsible relative's financial ability to support, utilizing existing State and federal sources (for example, Illinois Department of Employment Security), client statements, employer statements, or the use of the Department's subpoena powers, enter a support order in accord with subsection (c)(1) of this Section.
- 4) The Department shall register, enforce or modify an order entered by a court or administrative body of another state, and make determinations of controlling order where appropriate, in accordance with the provisions of the Uniform Interstate Family Support Act [750 ILCS 22].

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- 5) An administrative support order shall include the following:
- A) the Title IV-D case name and identification number;
 - B) the names and birthdates of the persons for whom support is ordered;
 - C) the beginning date, amount and frequency of support;
 - D) any provision for health insurance coverage ordered under subsection (c)(4) of this Section;
 - E) the total retroactive support obligation and the beginning date, amount (which shall not be less than 20 percent of the current support amount) and frequency of payments to be made until the retroactive support obligation is paid in full;
 - F) the amount of any arrearage that has accrued under a prior support order and the beginning date, amount (which shall not be less than 20 percent of the support order) and frequency of payments to be made until the arrearage is paid in full;
 - G) a provision requiring that support payments be made to the State Disbursement Unit;
 - H) a statement informing the client and the responsible relative that they have 30 days from the date of mailing of the administrative support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102 and subsection (c)(2) of this Section, except that for orders entered as a result of a decision after a de novo hearing, the statement shall inform the client and the responsible relative that the order is a final administrative decision of the Department and that review is available only in accord with provisions of the Administrative Review Law [735 ILCS 5/Art III];
 - I) except where the order was entered as a result of a decision after a de novo hearing, a statement that the order was based upon the

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factors listed in subsection (c)(1)(A) of this Section and that in order to have the Department consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and

- J) in each administrative support order entered or modified on or after January 1, 2002, a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid for 30 days or more shall accrue simple interest at the rate of nine percent per annum.
- 6) Every administrative support order entered on or after July 1, 1997, shall include income withholding provisions based upon and containing the same information as prescribed in Section 160.75. The Department shall also prepare and serve income withholding notices after entry of an administrative support order and effect income withholding in the same manner as prescribed in Section 160.75.
 - 7) The Department shall provide to each client and each responsible relative a copy of each administrative support order entered, no later than 14 days after entry of such order, by:
 - A) delivery at the conclusion of an interview where financial ability to support was determined. An acknowledgment of receipt signed by the client or relative or a written statement identifying the place, date and method of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person.
 - B) regular mail to the party not receiving personal delivery where the relative fails or refuses to accept delivery, where either party does not attend the interview, or the orders are entered by default.
 - 8) In any case where the administrative support process has been initiated for the custodial parent and the non-marital child, and the custodial parent and

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the non-marital child move outside the original county, the administrative support case shall remain in the original county unless a transfer to the other county in which the custodial parent and the non-marital child reside is requested by either party or the Department and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative support process.

- 9) In any case in which an administrative support order is entered to establish and enforce an arrearage only, and the responsible relative's current support obligation has been terminated, the administrative support order shall require the responsible relative to pay a periodic amount equal to the terminated current support amount until the arrearage is paid in full.

e) Judicial Process

- 1) The Department shall refer Title IV-D cases for court action to establish support obligations of responsible relatives, pursuant to the support statutes (see subsection (a)(3) of this Section) in matters requiring the determination of parentage (except when paternity is to be determined administratively under Section 160.61), when the court has acquired jurisdiction previously and in instances described in subsection (d)(3)(D) of this Section, and as otherwise determined by the Department.
- 2) The Department shall prepare and transmit pleadings and obtain or affix appropriate signature thereto, which pleadings shall include, but not be limited to, petitions to:
 - A) intervene;
 - B) modify;
 - C) change payment path;
 - D) establish an order for support;
 - E) establish retroactive support;
 - F) establish past-due support;
 - G) establish parentage;

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- H) obtain a rule to show cause;
 - I) enforce judicial and administrative support orders; and
 - J) combinations of the above.
- 3) Department legal representatives shall request that judicial orders for support require payments to be made to the State Disbursement Unit in accordance with Section 10-10.4 of the Illinois Public Aid Code [305 ILCS 5/10-10.4], Section 507.1 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/507.1], Section 320 of the Uniform Interstate Family Support Act [750 ILCS 22/320], Section 21.1 of the Illinois Parentage Act of 1984 [750 ILCS 45/21.1] and Section 25 of the Non-Support Punishment Act [750 ILCS 16/25].
- f) Petitions for Release from Administrative Support Orders – Extraordinary Remedies
- 1) Notwithstanding the statements required by subsections (d)(5)(H) and (d)(5)(I) of this Section, more than 30 days after the entry of an administrative support order under subsection (d) of this Section, a party aggrieved by entry of an administrative support order may petition the Department for release from the order on the same grounds as are provided for relief from judgments under Section 2-1401 of the Code of Civil Procedure.
 - 2) Petitions under this subsection (f) must:
 - A) cite a meritorious defense to entry of the order;
 - B) cite the exercise of due diligence in presenting that defense to the Department;
 - C) be filed no later than two years following the entry of the administrative support~~paternity~~ order, except that times listed below shall be excluded in computing the two years:
 - i) time during which the person seeking relief is under legal disability;

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- ii) time during which the person seeking relief is under duress;
 - iii) time during which the ground for relief is concealed from the person seeking relief;
- D) be supported by affidavit or other appropriate showing as to matters not supported by the record.
- 3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent, caretaker or responsible relative by certified mail, return receipt requested, or by any manner provided by law for service of process. The filing of a petition under this subsection (f) does not affect the validity of the administrative support order.

(Source: Amended at 29 Ill. Reg. 10211, effective June 30, 2005)

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.75 Withholding of Income to Secure Payment of Support

- a) Definitions
The definitions contained in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15], are incorporated herein by reference.
- b) Entry of Order for Support Containing Income Withholding Provisions; Income Withholding Notice
 - 1) The Department, through its legal representative, shall request that when entering an order for support the court include in the order the following income withholding provisions, as required by law:
 - A) that an income withholding notice be prepared by the Department and served immediately upon any payor of the obligor, unless a written agreement is reached between and signed by both parties providing for an alternative arrangement, approved and entered into the record by the court, which ensures payment of support. In that case, the Department, through its legal representative, shall request that the order for support provide that an income withholding notice is to be prepared and served only if the obligor

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becomes delinquent in paying the order for support; and

- B) a dollar amount to be paid until payment in full of any delinquency that accrues after entry of the order for support; the dollar amount not to be less than 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the order for support; and
 - C) the obligor's Social Security Number disclosed to the court as required by law; and
 - D) if the obligor is not a United States citizen, the obligor's alien registration number, passport number, and home country's social security or national health number disclosed to the court as required by law.
- 2) The income withholding notice prepared by the Department shall:
- A) be in the standard format prescribed by the federal Department of Health and Human Services; and
 - B) state the date of entry of the order for support upon which the income withholding notice is based; and
 - C) direct any payor to withhold the dollar amount required for current support under the order for support; and
 - D) direct any payor to withhold the dollar amount required to be paid periodically under the order for support for payment of the amount of any arrearage stated in the order for support; and
 - E) state the amount of the payor income withholding fee as provided by law; and
 - F) state that the amount actually withheld from the obligor's income for support and other purposes, including the payor's withholding fee, may not be in excess of the maximum amount permitted under the federal Consumer Credit Protection Act; and
 - G) state the duties of the payor and the fines and penalties provided by

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law for failure to withhold and pay over income and for discharging, disciplining, refusing to hire, or otherwise penalizing the obligor because of the duty to withhold and pay over income; and

- H) state the rights, remedies, and duties of the obligor, as provided by law; and
 - I) include the Social Security Numbers of the obligor, the obligee, and the child or children included in the order for support; and
 - J) include the date withholding for current support terminates, which shall be the date of termination of the current support obligation set forth in the order for support; and
 - K) contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office, except that the failure to contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office shall not affect the validity of the income withholding notice; and
 - L) direct any payor to pay over amounts withheld for payment of support to the State Disbursement Unit.
- 3) Notwithstanding the exception to immediate income withholding referred to in subsection (b)(1)(A) of this Section, if the court finds at the time of any hearing that an arrearage has accrued, the Department, through its legal representative, shall request that the court order immediate service of an income withholding notice upon the payor, as required by law.
- c) Service of Income Withholding Notice
- 1) If the order for support requires immediate service of an income withholding notice, the Department shall serve the notice on the payor within two business days after the date the order is received if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If the Department receives the payor's address from the Illinois Directory of New Hires, as established under Section 1801.1 of the Unemployment

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Insurance Act [820 ILCS 405/1801.1], the Department shall serve an income withholding notice and, where applicable, a National Medical Support Notice, on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.

- 2) The Department may serve the income withholding notice on the payor or its superintendent, manager, or other agent by ordinary mail or certified mail, return receipt requested, by facsimile transmission or other electronic means, by personal delivery, or by any method provided by law for service of a summons. At the time of service on the payor and as notice that withholding has commenced, the Department shall serve a copy of the income withholding notice on the obligor by ordinary mail addressed to his or her last known address. A copy of the income withholding notice together with proofs of service on the payor and the obligor shall be filed by the Department with the Clerk of the Circuit Court.
 - 3) Notwithstanding the fact that the order for support, under the exception to immediate withholding referred to in subsection (b)(1)(A) of this Section, provides that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support, the Department shall serve an income withholding notice on the payor prior to accrual of a delinquency if the obligor executes a written waiver of that condition and requests immediate service on the payor.
 - 4) At any time after the initial service of an income withholding notice, the Department may serve any other payor of the obligor with the same income withholding notice without further notice to the obligor. A copy of the income withholding notice together with a proof of service on the other payor shall be filed with the Clerk of the Circuit Court.
- d) **Income Withholding After Accrual of Delinquency**
- 1) The Department shall prepare and serve an income withholding notice within two business days after the date the obligor accrues a delinquency if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If the payor's address is unknown on the date the obligor accrues a delinquency, and the Department receives the payor's address from the

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Illinois Directory of New Hires, the Department shall serve an income withholding notice on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.

- 2) An income withholding notice prepared by the Department under subsection (d)(1) of this Section shall:
 - A) contain the information required under subsection (b)(2) of this Section; and
 - B) contain the total amount of the delinquency as of the date of the notice; and
 - C) direct the payor to withhold the dollar amount required to be withheld periodically under the order for support for payment of the delinquency; and
 - D) be served on the payor and the obligor in the manner provided in subsection (c)(2) of this Section.
 - 3) The obligor may contest withholding commenced under this subsection (d) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to:
 - A) a dispute concerning the existence or amount of the delinquency; or
 - B) the identity of the obligor.
 - 4) The accrual of a delinquency as a condition for service of an income withholding notice, under the exception to immediate withholding referred to in subsection (b)(1)(A) of this Section, shall apply only to the initial service of an income withholding notice on a payor of the obligor.
- e) Initiated Withholding
- 1) Notwithstanding any other provision of this Section, if the court has not

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required that income withholding take effect immediately, the Department, pursuant to this subsection (e), may initiate withholding regardless of whether a delinquency has accrued, by preparing and serving an income withholding notice on the payor that contains the information required under subsection (b)(2) of this Section and states that the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A) of this Section no longer ensures payment of support, and the reason or reasons why it does not.

- 2) The income withholding notice and the obligor's copy of the income withholding notice shall be served as provided in subsection (c)(2) of this Section.
 - 3) The obligor may contest withholding commenced under this subsection (e) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to a dispute concerning the conditions in subsections (e)(3)(A) and (B) of this Section (it shall not be grounds for filing a petition that the obligor has made all payments due by the date of the petition):
 - A) whether the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A) of this Section continues to ensure payment of support; or
 - B) the identity of the obligor.
- f) Petitions to Modify, Suspend or Terminate an Order for Withholding
- 1) At any time the Department, through its legal representative, may petition the court to:
 - A) modify, suspend or terminate the income withholding notice because of a modification, suspension, or termination of the underlying order for support;
 - B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or

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- C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery.
- 2) The Department shall serve on the payor, in the manner provided for service of income withholding notices in subsection (c)(2) of this Section, a copy of any order entered pursuant to this subsection (f) that affects the duties of the payor.
- 3) The Department may serve a notice on the payor to:
 - A) cease withholding of income for payment of current support for a child when the support obligation for that child has automatically ceased under the order for support through emancipation or otherwise; or
 - B) cease withholding of income for payment of delinquency or arrearage when the delinquency or arrearage has been paid in full.
- 4) The notice provided for under subsection (f)(3) of this Section shall be served on the payor in the manner provided for service of income withholding notices in subsection (c)(2) of this Section, and a copy shall be provided to the obligor and the obligee.
- g) **Additional Duties**
The Department shall provide notice to the payor and Clerk of the Circuit Court of any other support payment made, including but not limited to:
 - 1) an offset under federal or State law; or
 - 2) partial payment of the delinquency or arrearage or both.
- h) **Alternative Procedures for Service of an Income Withholding Notice**
 - 1) The procedures of this subsection (h) shall be used by the Department in any matter to serve an income withholding notice on a payor if:
 - A) For any reason the most recent order for support entered does not contain the income withholding provisions stated in subsection (b)

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of this Section, irrespective of whether a separate order for withholding was entered prior to July 1, 1997; and

- B) The obligor has accrued a delinquency after entry of the most recent order for support.
- 2) The Department shall prepare and serve the income withholding notice in accordance with the provisions of subsection (d) of this Section, except that the notice shall contain a periodic amount for payment of the delinquency equal to 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the most recent order for support.
- 3) If the obligor requests in writing that income withholding become effective prior to the obligor accruing a delinquency under the most recent order for support, the Department shall prepare and serve an income withholding notice on the payor as provided in subsections (b) and (c) of this Section. In addition to filing proofs of service of the income withholding notice on the payor and the obligor, the Department shall file a copy of the obligor's written request for income withholding with the Clerk of the Circuit Court.
- i) Notice to Payor
Whenever the Department serves an income withholding notice on a payor, notice of the following shall be included in or with the income withholding notice:
- 1) that the payor must begin deducting no later than the next payment of income which is payable or creditable to the obligor that occurs 14 days following the date the income withholding notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the payor;
- 2) that the payor must pay the amount withheld to the State Disbursement Unit within seven business days after the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;
- 3) that if the payor knowingly fails to pay any amounts withheld to the State Disbursement Unit within seven business days after the date the amount would have been paid or credited to the obligor, the payor is subject to a penalty of \$100 for each day that the withheld amount is not paid to the

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State Disbursement Unit after the period of seven business days has expired;

- 4) that the payor may combine all amounts withheld for the benefit of an obligee or public office into a single payment and transmit the payment with a listing of obligors from whom withholding has been effected;
- 5) that for each deduction the payor must provide the State Disbursement Unit at the time of transmittal, with the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;
- 6) that for withholding of income, the payor is entitled to a fee not to exceed \$5 per month to be taken from the income to be paid to the obligor;
- 7) that the amount actually withheld for support, the child's health insurance premium and payor withholding fee shall not exceed the maximum amount permitted under the federal Consumer Credit Protection Act. Income available for withholding shall be applied first to the current support obligation, then to any premium required for employer, labor union, or trade union-related health insurance coverage ordered under the order for support, and then to payment required on past due support obligations. If there is insufficient available income remaining to pay the full amount of the required health insurance premium after withholding of income for the current support obligation, then the remaining available income shall be applied to payments required on past due support obligations;
- 8) require that whenever the obligor is no longer receiving income from the payor, the payor must return a copy of the income withholding notice to the Department and provide the obligor's last known address and the name and address of the obligor's new payor, if known;
- 9) that withholding of income under the income withholding notice must be made without regard to any prior or subsequent garnishments, attachments, wage assignments, or any other claims of creditors;
- 10) that the income withholding notice is binding upon the payor until service of an order of the court or a notice from the Department or Clerk of the Circuit Court;

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- 11) that the payor is subject to a fine of up to \$200 for discharging, disciplining or otherwise penalizing an obligor because of the duty to withhold income;
 - 12) that if the payor willfully fails to withhold or pay over income pursuant to a properly served income withholding notice that the payor is liable for the total amount that the payor willfully failed to withhold or pay over;
 - 13) that if the payor has been served with more than one income withholding notice pertaining to the same obligor, the payor shall allocate income available on a proportionate share basis, giving priority to current support payments; and
 - 14) that a payor who complies with an income withholding notice that is regular on its face is not subject to civil liability with respect to any individual, any agency, or any creditor of the obligor for conduct in compliance with the notice.
- j) Notice to Obligor
When the Department serves a copy of the income withholding notice on the obligor as required under this Section, notice of the following shall be included in or with the obligor's copy of the income withholding notice:
- 1) that income withholding has commenced;
 - 2) the information provided to the payor under subsection (i) of this Section;
 - 3) the procedures and the permissible grounds for contesting withholding commenced under subsection (d), (e) or (h) of this Section, as applicable;
 - 4) that at any time the obligor may petition the court to:
 - A) modify, suspend or terminate the income withholding notice because of a modification, suspension or termination of the underlying order for support; or
 - B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or

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- C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery; or
 - D) correct a term contained in an income withholding notice to conform to that stated in the underlying order for support for:
 - i) the amount of current support;
 - ii) the amount of the arrearage;
 - iii) the periodic amount for payment of the arrearage; or
 - iv) the periodic amount for payment of the delinquency;
 - 5) that the obligor is required by law to notify the obligee, the Department, and the Clerk of the Circuit Court of any new address or payor within seven days after the change; and
 - 6) that where a payor willfully discharges, disciplines, refuses to hire or otherwise penalizes an obligor because of the duty to withhold income, the obligor may file a complaint with the court against the payor, and that the court may order employment or reinstatement of or restitution to the obligor, or may impose a fine upon the payor not to exceed \$200.
- k) Penalties
- In cases where a payor willfully fails to withhold or pay over income, pursuant to a properly served income withholding notice, or otherwise fails to comply with any income withholding duties imposed by law, the Department, through its legal representatives, may request that the court:
- 1) enter judgment and direct the enforcement thereof for the total amount that the payor willfully failed to withhold or pay over;
 - 2) impose a penalty or fine upon the payor or invoke any other remedy allowed by law.
- l) Interstate Income Withholding
- Within the timeframes specified in subsections (c)(1) and (d)(1) of this Section, and pursuant to the provisions of the Uniform Interstate Family Support Act [750

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ILCS 22], the Department shall engage income withholding in cases in which the obligor is receiving income from a payor located in another state.

- m) Use of National Medical Support Notice to Enforce Health Insurance Coverage
- 1) When an order for support is being enforced by the Department under this Section, any requirement for health insurance coverage to be provided through an employer, including withholding of premiums from the income of the obligor, shall be enforced through use of a National Medical Support Notice.
 - 2) A National Medical Support Notice shall be served on the employer in the manner and under the circumstances provided for serving an income withholding notice under this Section, except that an order for support that conditions service of an income withholding notice on the obligor becoming delinquent in paying the order for support shall not prevent immediate service of a National Medical Support Notice by the Department. The Department may serve a National Medical Support Notice on an employer in conjunction with service of an income withholding notice. Service of an income withholding notice is not a condition for service of a National Medical Support Notice, however.
 - 3) At the time of service of a National Medical Support Notice on the employer, the Department shall serve a copy of the Notice on the obligor by ordinary mail addressed to the obligor's last known address. The Department shall file a copy of the National Medical Support Notice, together with proofs of service on the employer and the obligor, with the clerk of the circuit court.
 - 4) Within 20 business days after the date of a National Medical Support Notice, an employer served with the Notice shall transfer the severable notice to plan administrator to the appropriate group health plan providing any health insurance coverage for which the child is eligible. As required in the part of the National Medical Support Notice directed to the employer, the employer shall withhold any employee premium necessary for coverage of the child and shall send any amount withheld directly to the plan. The employer shall commence the withholding no later than the next payment of income that occurs 14 days after the date the National Medical Support Notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the employer.

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Notwithstanding the requirement to withhold premiums from the obligor's income, if the plan administrator informs the employer that the child is enrolled in an option under the plan for which the employer has determined that the obligor's premium exceeds the amount that may be withheld from the obligor's income due to the withholding limitation or prioritization contained in Section 35 of the Income Withholding for Support Act, the employer shall complete the appropriate item in the part of the National Medical Support Notice directed to the employer according to the instructions in the Notice and shall return that part to the Department.

- 5) If one of the following circumstances exists, an employer served with a National Medical Support Notice shall complete the part of the Notice directed to the employer in accordance with the instructions in the Notice and shall return that part to the Department within 20 business days after the date of the Notice:
 - A) The employer does not maintain or contribute to plans providing dependent or family health insurance coverage.
 - B) The obligor is among a class of employees that is not eligible for family health insurance coverage under any group health plan maintained by the employer or to which the employer contributes.
 - C) Health insurance coverage is not available because the obligor is no longer employed by the employer.
- 6) The administrator of a health insurance plan to whom an employer has transferred the severable notice to plan administrator part of a National Medical Support Notice shall complete that part with the health insurance coverage information required under the instructions in the Notice and shall return that part to the Department within 40 business days after the date of the Notice.
- 7) The obligor may contest withholding under this Section based only on a mistake of fact and may contest withholding by filing a petition with the clerk of the circuit court within 20 days after service of a copy of the National Medical Support Notice on the obligor. The obligor must serve a copy of the petition on the Department at the address stated in the National Medical Support Notice. The National Medical Support Notice, including

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the requirement to withhold any required premium, shall continue to be binding on the employer until the employer is served with a court order resolving the contest or until notified by the Department.

- 8) Whenever the obligor is no longer receiving income from the employer, the employer shall return a copy of the National Medical Support Notice to the Department and shall provide information for the purpose of enforcing health insurance coverage under this Section.
- 9) The Department shall promptly notify the employer when there is no longer a current order for health insurance coverage in effect that the Department is responsible for enforcing.
- 10) Unless stated otherwise in this Section, all of the provisions of this Section relating to income withholding for support shall pertain to income withholding for health insurance coverage under a National Medical Support Notice, including but not limited to, the duties of the employer and obligor, and the penalties contained in Section 35 and Section 50 of the Income Withholding for Support Act. In addition, an employer who willfully fails to transfer the severable notice to plan administrator part of a National Medical Support Notice to the appropriate group health plan providing health insurance coverage for which a child is eligible, within 20 business days after the date of the Notice, is liable for the full amount of medical expenses incurred by or on behalf of the child which would have been paid or reimbursed by the health insurance coverage had the severable notice to plan administrator part of the Notice been timely transferred to the group health insurance plan. This penalty may be collected in a civil action that may be brought against the employer in favor of the obligee or the Department.
- 11) When the administrator of a health insurance plan returns the severable notice to plan administrator portion of a National Medical Support Notice to the Department indicating that there is more than one option available for coverage of the child under the plan, the Department, within 20 days after the date the portion is returned, shall consult with the obligee, select from the available options, and inform the plan administrator of the option selected.

n) Unpaid Arrearage or Delinquency After Current Support Obligation Terminates

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- 1) When current support terminates on the date stated in the order for support, or because the child attains the age of majority or is otherwise emancipated, and the amount previously required to be paid for current support of that child automatically continues as an obligation for periodic payment toward satisfaction of an unpaid arrearage or delinquency as provided by law, the Department may prepare and serve upon the obligor's payor an income withholding notice that:
 - A) contains the information required in subsection (b)(2) of this Section;
 - B) contains the total amount of the unpaid arrearage or delinquency as of the date of the notice; and
 - C) directs the payor to withhold, as a periodic payment toward satisfaction of the unpaid arrearage or delinquency, the total of:
 - i) the periodic amount required to be paid as current support immediately prior to the date the current support obligation terminated under the order or by the child becoming emancipated by age or otherwise; and
 - ii) any periodic amount previously required for satisfaction of the arrearage or delinquency.
- 2) The income withholding notice and the copy of the income withholding notice shall be served as provided in subsection (c) of this Section.
- 3) The obligor may contest withholding under this subsection (n) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for contesting withholding shall be limited to:
 - A) a dispute regarding the amount or existence of the unpaid arrearage or delinquency; or
 - B) the accuracy of the periodic amount to be withheld; or
 - C) the identity of the obligor.

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- o) ~~h)~~ Refund of Improperly Withheld Amounts
The Department shall promptly refund to the obligor amounts found to have been improperly withheld from the obligor's income.

(Source: Amended at 29 Ill. Reg. 10211, effective June 30, 2005)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Licensing
- 2) Code Citation: 11 Ill. Adm. Code 502
- 3) Section Number: 205.350 Adopted Action: Amended
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: August 1, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 29 Ill. Reg. 638; 1/3/05
- 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 letter issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of rulemaking: This rulemaking amends this Section to require new applicants for a farrier's license to pass both written and practical examinations and that the exams be administered by 2 licensed farriers with at least 3 years experience.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Illinois Racing Board
100 West Randolph
Suite 7-701

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Chicago, Illinois 60601

Attn: Mickey Ezzo

(312) 814-5017

mickey_izzo@irb.state.il.us

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 502
LICENSING

SUBPART A: PROCEDURE

| | |
|---------|--------------------------------------------|
| Section | |
| 502.10 | Submission of Application |
| 502.20 | Complete Application |
| 502.30 | License Fees |
| 502.40 | Duration and Extent of Occupation Licenses |
| 502.50 | Rulings and Hearings |
| 502.55 | Denial of License |
| 502.58 | License to Participate |

SUBPART B: STATUTORY GROUNDS FOR DENIAL OF A LICENSE

| | |
|---------|-----------------------------------------------------------------------------------------|
| Section | |
| 502.60 | Denial of a License for Criminal Conviction |
| 502.72 | First-Time Applicant Who Has Been Convicted of a Crime |
| 502.76 | Prohibitions Against Persons on Conditional Discharge, Parole, Probation or Supervision |
| 502.78 | Probationary Nature of Licenses |
| 502.80 | Unqualified to Perform the Duties |
| 502.90 | Falsifying Answers or Omitting Facts |
| 502.100 | Just Cause |
| 502.102 | Burden of Going Forward |
| 502.104 | Denial of a License for Just Cause in Illinois or in Another Racing Jurisdiction |

SUBPART C: GENERAL CRITERIA

| | |
|---------|--------------------------------------|
| Section | |
| 502.110 | Criteria for Determining Eligibility |
| 502.115 | Standards Required of All Applicants |

SUBPART D: OWNERS

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Section
502.120 Owners

SUBPART E: TRAINERS AND ASSISTANT TRAINERS

Section
502.200 Trainers and Assistant Trainers
502.210 Prospective Trainers or Assistant Trainers
502.220 Workers' Compensation

SUBPART F: JOCKEYS AND APPRENTICE JOCKEYS

Section
502.230 Jockeys and Apprentice Jockeys
502.235 Apprentice Jockeys, Criteria for Eligibility
502.238 Apprentice Contract or Certificate

SUBPART G: DRIVERS

Section
502.250 Harness Driver
502.260 Prospective Harness Drivers
502.270 "Q" Licenses
502.280 "P" Licenses
502.290 "A" Licenses

SUBPART H: OTHER LICENSEES

Section
502.300 Veterinarians
502.320 Veterinary Assistant
502.350 Farriers (Blacksmiths)
502.380 Exercise Riders
502.400 Pony Person
502.450 Stable Foreman
502.500 Jockey Agents
502.600 Authorized Agents
502.650 Tack Shop Operators and Other Vendors
502.660 Vendor Helper

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| | |
|---------|----------------------|
| 502.680 | Thoroughbred Grooms |
| 502.690 | Harness Grooms |
| 502.700 | Hotwalker |
| 502.790 | Totalizator Employee |

SUBPART I: CONFLICTS OF INTEREST

| | |
|---------|------------------------|
| Section | |
| 502.800 | General Provisions |
| 502.820 | Dual Licensing |
| 502.830 | Limitations on License |
| 502.840 | Husbands and Wives |
| 502.850 | Transfer of a Horse |

AUTHORITY: Implementing Section 15 and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b) and 15].

SOURCE: Emergency rule adopted and codified at 6 Ill. Reg. 9711, effective July 27, 1982, for a maximum of 150 days; adopted and codified at 6 Ill. Reg. 13786, effective October 25, 1982; amended at 7 Ill. Reg. 5225, effective April 1, 1983; amended at 11 Ill. Reg. 20611, effective January 1, 1988; amended at 13 Ill. Reg. 1562, effective January 23, 1989; amended at 13 Ill. Reg. 4931, effective March 22, 1989; amended at 14 Ill. Reg. 17641, effective October 16, 1990; amended at 15 Ill. Reg. 11985, effective August 12, 1991; amended at 16 Ill. Reg. 12774, effective July 31, 1992; amended at 17 Ill. Reg. 19961, effective November 9, 1993; amended at 18 Ill. Reg. 11615, effective July 7, 1994; amended at 19 Ill. Reg. 5034, effective April 1, 1995; amended at 19 Ill. Reg. 17190, effective January 1, 1996; amended at 20 Ill. Reg. 13052, effective October 1, 1996; amended at 22 Ill. Reg. 10656, effective June 1, 1998; amended at 28 Ill. Reg. 11244, effective August 1, 2004; amended at 29 Ill. Reg. 10248, effective August 1, 2005.

SUBPART H: OTHER LICENSEES

Section 502.350 Farriers (Blacksmiths)

An applicant for a farrier's license shall have been licensed previously by the Board or another racing jurisdiction ~~or shall show proof of having passed a farrier's examination administered by a state agency.~~ A valid farrier's license from another racing jurisdiction where he was administered and passed a farrier's examination may be accepted as evidence of experience and qualifications. Farriers who have never been licensed by the Board or another racing jurisdiction ~~shall be required to: or who cannot show proof of having passed a farrier's examination shall~~

ILLINOIS RACING BOARD

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~~establish by demonstration to the stewards or their designees that the applicant has the knowledge and skills of a farrier.~~

- a) Pass written and practical examinations. The practical examinations shall consist of shoeing a horse and working in the fire to make a bar shoe and a shoe with a sticker and a block. The written examination shall be administered by the Stewards. A passing score shall be a score of 75%.
- b) The written and practical examinations shall be administered by 2 licensed farriers, appointed by the Stewards, with at least 3 years experience each and witnessed by a Steward or the Steward's designee.

(Source: Amended at 29 Ill. Reg. 10248, effective August 1, 2005)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES~~PUBLIC AID~~

NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: State Responsibility for Medicare Part D Low-Income Subsidy
- 2) Code Citation: 89 Ill. Adm. Code 127
- 3) Section Numbers: Emergency Action:
127.10 New Section
127.20 New Section
127.100 New Section
- 4) Statutory Authority: The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: July 1, 2005
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date Filed with the Index Department: July 1, 2005
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency rules concerning determinations of eligibility for the low-income subsidy under Medicare Part D prescription drug coverage are being filed pursuant to requirements under the federal Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003. Medicare beneficiaries who enroll for drug coverage must pay premiums, deductibles and coinsurance. However, the federal government will provide additional assistance through a low-income subsidy for beneficiaries with income less than 150 percent of poverty and small amounts of assets. Under the MMA, single state Medicaid agencies are required to make determinations of eligibility for a low-income subsidy, upon request, beginning July 1, 2005. Emergency implementation of these new provisions is necessary because the federal Centers for Medicare & Medicaid Services did not publish final guidelines for states to follow until May 25, 2005.
- 10) Complete Description of the Subjects and Issues Involved: These emergency rules describe the Department's responsibilities related to the Medicare Part D low-income subsidy (LIS) as mandated by the federal Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003. The MMA creates a voluntary prescription drug benefit for Medicare beneficiaries under a new Medicare Part D. These new rules govern

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES~~PUBLIC AID~~

NOTICE OF EMERGENCY RULES

administrative action concerning determinations of LIS eligibility made by the Department.

Medicare Part D prescription drug coverage will take effect January 1, 2006. Medicare beneficiaries who enroll for drug coverage will be required to pay premiums, deductibles and coinsurance. However, beneficiaries with incomes under 150 percent of poverty and modest assets will be eligible for additional federal assistance, the LIS, to cover a portion of their out-of-pocket costs for Medicare prescription drug coverage. Beneficiaries who meet certain qualifications will receive the LIS automatically, and others must apply for it. The Social Security Administration (SSA) intends to receive and process most LIS applications. Both SSA and the federal Centers for Medicare & Medicaid Services have asked states to encourage all potential applicants to apply to SSA. Nonetheless, the MMA requires that single state Medicaid agencies also make determinations of LIS eligibility upon request beginning July 1, 2005. The process the Department will follow to satisfy the MMA and federal guidelines is established under these new rules.

These emergency changes are not expected to result in any budgetary changes.

- 11) Are there any other amendments pending on this Part? No
- 12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any State mandate affecting units of local government.
- 13) Information and questions regarding this amendment shall be directed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES~~PUBLIC AID~~

NOTICE OF EMERGENCY RULES

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 127

STATE RESPONSIBILITY FOR MEDICARE PART D LOW-INCOME SUBSIDY

SUBPART A: GENERAL PROVISIONS

Section

127.10 Federal Legislative Base

EMERGENCY

127.20 Scope of Department Responsibility

EMERGENCY

SUBPART B: DETERMINATION OF ELIGIBILITY FOR
MEDICARE PART D LOW-INCOME SUBSIDY

Section

127.100 Eligibility for Low-Income Subsidy

EMERGENCY

AUTHORITY: Implementing and authorized by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (PL 108-173) and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 10254, effective July 1, 2005, for a maximum of 150 days

SUBPART A: GENERAL PROVISIONS

Section 127.10 Federal Legislative Base**EMERGENCY**

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (PL 108-173) establishes a voluntary prescription drug benefit for Medicare beneficiaries under a new Medicare Part D that begins January 1, 2006. Medicare Part D provides medical coverage of prescription drugs to Medicaid eligible individuals who are also eligible for Medicare Part A or enrolled in Medicare Part B. It also provides for extra help with premiums, deductibles and co-payments under a low-income subsidy (LIS) for individuals who meet an income and asset test as described at 42 CFR 423.773.

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Section 127.20 Scope of Department Responsibility
EMERGENCY

- a) The federal Centers for Medicare and Medicaid Services (CMMS) have overall responsibility for implementing Medicare Part D. Under Medicare Part D, the federal Social Security Administration (SSA) has responsibility for eligibility determinations and redeterminations for the LIS, and for appeals of those eligibility determinations and redeterminations.
- b) As described at 42 CFR 423, Subpart S, the State has certain responsibilities related to Medicare Part D. As the agency responsible for administering Medicaid in Illinois, the Department shall make eligibility determinations and redeterminations for the LIS, and hear appeals of eligibility determinations and redeterminations, only for individuals who specifically request a State determination. The Department is also required to notify CMS of LIS eligibility determinations.

**SUBPART B: DETERMINATION OF ELIGIBILITY FOR
MEDICARE PART D LOW-INCOME SUBSIDY****Section 127.100 Eligibility for Low-Income Subsidy**
EMERGENCY

- a) The Department will encourage individuals to apply for the LIS under Medicare Part D with the Social Security Administration.
- b) The Department shall make eligibility determinations and redeterminations, and hear appeals of eligibility determinations and redeterminations, only for individuals who specifically request a State determination of eligibility for the LIS.
- c) The determination and redetermination of eligibility for the LIS will be made in accordance with the financial and non-financial criteria established at 42 CFR 423, Subpart P.
- d) Individuals who are eligible for the LIS will not be required to report changes in circumstances, as described at 89 Ill. Adm. Code 102.50, until redetermination of eligibility for the LIS.

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- e) Unless otherwise specified in federal law or this Section, the Department will be governed by 89 Ill. Adm. Code 101, 102, 104, 110 and 120 in processing applications for the LIS and for hearing appeals of determinations and redeterminations of eligibility for the LIS.
- f) No State benefit shall accrue under this Section to individuals for whom the Department makes a determination of eligibility for the LIS, and nothing in this Section shall be construed to confer a State benefit on any individual.

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NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Mental Health Services in Nursing Facilities
- 2) Code Citation: 89 Ill. Adm. Code 145
- 3) Section Number: 145.10 Emergency Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 94-48
- 5) Effective Date: July 1, 2005
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: No
- 7) Date Filed with the Index Department: June 30, 2005
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This emergency amendment relates to the demonstration project for nursing facilities that primarily serve persons with severe mental illness. Evaluation under the project of treatment and payment methods that are specific to the needs of facilities specializing in mental health services is currently underway and the Department is working with industry representatives to develop an appropriate reimbursement methodology using the Illinois Minimum Data Set-Mental Health. Because of this, immediate implementation of these changes is necessary to extend the original June 30, 2005 expiration date of the demonstration project to June 30, 2007. Section 5-45 of Public Act 94-0048 specifically authorizes emergency rulemaking for the implementation of these changes for fiscal year 2006.
- 10) Complete Description of the Subjects and Issues Involved: These emergency changes relate to the demonstration project for mental health services in nursing facilities. This project was established in 2002 to evaluate the treatment of persons with severe mental illness who reside in nursing facilities called Institutions for Mental Disease (IMDs) and to evaluate standards and payment methods that are specific to the needs of facilities specializing in serving persons with mental disease. The Department is currently working with the long term care industry to develop an appropriate reimbursement methodology for IMDs using the Illinois Minimum Data Set-Mental Health. Because of

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this, the emergency amendment is necessary to extend the original expiration date of June 30, 2005 for the demonstration project to June 30, 2007.

- 11) Are there any other amendments pending on this Part? Yes

| <u>Section Numbers:</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|-------------------------|------------------------|-----------------------------------|
| 145.10 | Amendment | May 27, 2005 (29 Ill. Reg. 7675) |

- 12) Statement of Statewide Policy Objective: This emergency amendment neither creates nor expands any State mandate affecting units of local government.

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

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

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TITLE 89: SOCIAL SERVICES

| CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES ~~PUBLIC AID~~
SUBCHAPTER d: MEDICAL PROGRAMS

PART 145

MENTAL HEALTH SERVICES IN NURSING FACILITIES

SUBPART A: DEMONSTRATION PROJECT FOR
MENTAL HEALTH SERVICES IN NURSING FACILITIES

Section

145.10 General Provisions

| EMERGENCYSUBPART B: INSTITUTION FOR MENTAL DISEASES PROVISIONS
FOR NURSING FACILITIES

Section

145.20 General Provisions

145.30 Definitions

145.40 Initial IMD Review, Determination and Classification of Facilities

145.50 Subsequent IMD Reviews, Determinations and Classifications

145.60 Effect of Becoming a Class II IMD and Redetermination Reviews

145.70 Watch List of Nursing Facilities at Risk of Becoming IMDs

145.80 Reimbursement Rate for IMD Nursing Facility Classifications

145.90 Reviews

AUTHORITY: Sections 5-5.5 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/5-5.5 and 12-13]

SOURCE: Adopted at 26 Ill. Reg. 3081, effective February 15, 2002; emergency amendment at 29 Ill. Reg. 10259, effective July 1, 2005, for a maximum of 150 days.

SUBPART A: DEMONSTRATION PROJECT FOR
MENTAL HEALTH SERVICES IN NURSING FACILITIES**Section 145.10 General Provisions**| EMERGENCY

- a) This Section is promulgated to establish a demonstration project for nursing

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facilities that primarily serve persons with severe mental illness. The Department intends to evaluate the results of the demonstration project at the end of three years. General applicability of the provisions of this Subpart will depend upon the findings of the evaluation. It is the Department's intent to make the project a standard category of service after reviewing the results of the evaluation. Section 1905(a)(16) and Section 1905(a)(27)(b) of the Social Security Act provide that federal financial participation (FFP) is not available for medical assistance under Title XIX for services provided to any individual who is under 65 years of age and who is a resident in an institution for mental diseases (IMD) unless the payment is for inpatient psychiatric services for individuals under 21 years of age. In some Illinois nursing facilities, a very high proportion of residents are not elderly and have a severe mental illness. The purpose of the demonstration project is to allow nursing facilities to specialize in the treatment of persons with severe mental illness and focus their resources on providing psychiatric rehabilitation services rather than on meeting requirements designed primarily for elderly and medically impaired residents. The demonstration project will focus upon evaluating standards and payment methods specific to the needs of facilities specializing in serving persons with mental illness. The facilities in the demonstration project will serve as sites for examining service models appropriate for the mentally ill population in a long term care setting. They will also serve as sites for comparing costs for the numbers and credentials of staff appropriate for the physically, medically ill population. The cost information evaluated from the demonstration project will be used by the Department to develop a payment rule for services provided by a nursing facility to residents who have a serious mental illness as required by 305 ILCS 5/5-5.5(d). The ~~demonstration~~Demonstration project shall be in effect until June 30, ~~2007~~2005. The Department shall evaluate the demonstration project and report to the Illinois General Assembly regarding its findings and recommendations by December 31, 2004.

- b) For the purposes of this Part, "severe mental illness" is defined as the presence of a major disorder as classified in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV) (American Psychiatric Association, 1400 K Street NW, Washington DC 20005 (1994, no later amendments or editions included)), excluding alcohol and substance abuse, Alzheimer's disease, and other forms of dementia based upon organic or physical disorders. A severe mental illness is determined by all of the following three areas:
- 1) Diagnoses that constitute a severe mental illness are:
 - A) Schizophrenia,

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- B) Delusional disorder,
 - C) Schizo-affective disorder,
 - D) Psychotic disorder not otherwise specified,
 - E) Bipolar disorder I – mixed, manic, and depressed,
 - F) Bipolar disorder II,
 - G) Cyclothymic disorder,
 - H) Bipolar disorder not otherwise specified,
 - I) Major Depression, recurrent,
 - J) Psychotic disorder, not otherwise specified.
- 2) In addition, the individual must be 18 years of age or older and be substantially functionally limited by mental illness in at least two of the following areas:
- A) Self-maintenance,
 - B) Social functioning,
 - C) Community living activities,
 - D) Work related skills.
- 3) Finally, the disability must be of an extended duration, expected to be present for at least a year, that results in a substantial limitation in major life activities. These individuals will typically also have one of the following characteristics:
- A) Have experienced two or more psychiatric hospitalizations;
 - B) Receive Social Security Income (SSI) or Social Security Disability Income (SSDI) due to mental illness or have been deemed eligible

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for it.

- c) In order to be eligible to enter the demonstration project, a nursing facility must meet each of the following criteria:
- 1) Ninety percent or more of the residents have a diagnosis of severe mental illness;
 - 2) No more than 15 percent of the residents are 65 years of age or older;
 - 3) None of the residents has a primary diagnosis of moderate, severe, or profound mental retardation;
 - 4) None of the residents requires medical or nursing care at a level higher than the intermediate nursing care light level of care as defined in 77 Ill. Adm. Code 300.1230(n); and
 - 5) The facility must be in good standing with the Departments of Public Aid and Public Health.
- d) Nursing facilities that meet the criteria set forth in subsection (c) of this Section may apply to the Department to be considered for participation in the demonstration project. In selecting facilities for the demonstration project, the Department shall consider other factors beyond the criteria in subsection (c) of this Section such as, but not limited to, the facility's history of compliance with all applicable State and federal standards and the effect of lost federal funds associated with withdrawal from certification. The Department will enter into provider agreements with those facilities selected for the demonstration project. No more than 12 facilities shall be admitted to the demonstration project.
- e) Nursing facilities participating in the demonstration project must comply with the standards set forth in 77 Ill. Adm. Code 300.6000 through 300.6095. Based on a finding of noncompliance by the Department of Public Health on the part of a nursing facility participating in the demonstration project with any requirement set forth in 77 Ill. Adm. Code 300.6000 through 300.6095, the Department may impose sanctions as set forth in 89 Ill. Adm. Code 147.301 after notice to the facility.
- f) Notwithstanding any other provisions contained in the Administrative Code requiring certification of nursing facilities, nursing facilities participating in the

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demonstration project are not required to be certified for Title XIX participation in order to enroll for participation in the Medical Assistance Program or to receive payment for services.

- g) The Department shall not pay for any new admissions to the nursing facilities participating in the demonstration project of residents who:
 - 1) Are age 60 years or older;
 - 2) Do not have a severe mental illness as determined by the State's mental health pre-admission screening program; or
 - 3) Require medical or nursing care at a level higher than the intermediate nursing care light level of care as defined in 77 Ill. Adm. Code 300.1230(n).
- h) The Departments of Public Aid and Public Health, and the Department of Human Services, Office of Mental Health, shall have the right of entry and inspection of any nursing facilities participating in the demonstration project to determine success and utility of the demonstration project.
- i) The Department shall provide technical assistance to nursing facilities participating in the demonstration project to assist them in meeting the standards set forth in 77 Ill. Adm. Code 300.6000 through 300.6095.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10259, effective July 1, 2005, for a maximum of 150 days)

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- 1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3) Section Number: Emergency Action:
147.150 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13],
Public Act 94-0085 and Public Act 94-0048
- 5) Effective Date of Amendment: July 1, 2005
- 6) If this emergency amendment is to expire before the end of the 150-day period, please
specify the date on which it is to expire: Not Applicable
- 7) Date Filed with the Index Department: June 30, 2005
- 8) A copy of the emergency amendment, including any materials incorporated by reference,
is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This emergency amendment concerning nursing facility
reimbursement is being filed pursuant to the enactment of the State's budget plan for
fiscal year 2006. Under Public Act 94-0085, the transition period for implementation of
the new Minimum Data Set rate methodology for the nursing component of the rates for
nursing facilities will be extended from July 1, 2005 to July 1, 2006. Section 5-45 of
Public Act 94-0048 specifically authorizes emergency rulemaking for the implementation
of these changes for fiscal year 2006.
- 10) Complete Description of the Subjects and Issues Involved: This proposed change
responds to Public Act 94-0085 under which implementation of the new Minimum Data
Set (MDS) rate methodology for the nursing component of the rates for nursing facilities
will be extended from July 1, 2005 to July 1, 2006. Delaying implementation of the
MDS-based system will allow the Department to continue development of the MDS
monitoring system and provide additional time for the Department to continue work with
the long term care industry in preparing for use of the MDS. This change will not result
in any budgetary changes.
- 11) Are there any other amendments pending on this Part? Yes

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| <u>Section Numbers:</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|-------------------------|------------------------|-----------------------------------|
| 147.125 | Amendment | May 27, 2005 (29 Ill. Reg. 7682) |
| 147.150 | Amendment | May 27, 2005 (29 Ill. Reg. 7682) |

- 12) Statement of Statewide Policy Objectives: This emergency amendment neither creates nor expands any State mandate affecting units of local government.
- 13) Information and questions regarding this amendment shall be directed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

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TITLE 89: SOCIAL SERVICES

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SUBCHAPTER d: MEDICAL PROGRAMS

PART 147

REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES

Section

- 147.5 Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Repealed)
- 147.15 Comprehensive Resident Assessment (Repealed)
- 147.25 Functional Needs and Restorative Care (Repealed)
- 147.50 Service Needs (Repealed)
- 147.75 Definitions (Repealed)
- 147.100 Reconsiderations (Repealed)
- 147.105 Midnight Census Report
- 147.125 Nursing Facility Resident Assessment Instrument
- 147.150 Minimum Data Set (MDS) Based Reimbursement System
- EMERGENCY
- 147.175 Minimum Data Set (MDS) Integrity
- 147.200 Basic Rehabilitation Aide Training Program (Repealed)
- 147.205 Nursing Rates (Repealed)
- 147.250 Costs Associated with the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) (Repealed)
- 147.300 Payment to Nursing Facilities Serving Persons with Mental Illness
- 147.301 Sanctions for Noncompliance
- 147.305 Psychiatric Rehabilitation Service Requirements for Individuals With Mental Illness in Residential Facilities (Repealed)
- 147.310 Inspection of Care (IOC) Review Criteria for the Evaluation of Psychiatric Rehabilitation Services in Residential Facilities for Individuals with Mental Illness (Repealed)
- 147.315 Comprehensive Functional Assessments and Reassessments (Repealed)
- 147.320 Interdisciplinary Team (IDT) (Repealed)
- 147.325 Comprehensive Program Plan (CPP) (Repealed)
- 147.330 Specialized Care – Administration of Psychopharmacologic Drugs (Repealed)
- 147.335 Specialized Care – Behavioral Emergencies (Repealed)
- 147.340 Discharge Planning (Repealed)
- 147.345 Reimbursement for Program Costs in Nursing Facilities Providing Psychiatric Rehabilitation Services for Individuals with Mental Illness (Repealed)
- 147.350 Reimbursement for Additional Program Costs Associated with Providing

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Specialized Services for Individuals with Developmental Disabilities in Nursing Facilities

| | |
|-------------|---------------------------------------------------------------|
| 147.TABLE A | Staff Time (in Minutes) and Allocation by Need Level |
| 147.TABLE B | Staff Time and Allocation for Restorative Programs (Repealed) |
| 147.TABLE C | Comprehensive Resident Assessment (Repealed) |
| 147.TABLE D | Functional Needs and Restorative Care (Repealed) |
| 147.TABLE E | Service (Repealed) |
| 147.TABLE F | Social Services (Repealed) |
| 147.TABLE G | Therapy Services (Repealed) |
| 147.TABLE H | Determinations (Repealed) |
| 147.TABLE I | Activities (Repealed) |
| 147.TABLE J | Signatures (Repealed) |
| 147.TABLE K | Rehabilitation Services (Repealed) |
| 147.TABLE L | Personal Information (Repealed) |

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 140.900 thru 140.912 and 140.Table H and 140.Table I at 12 Ill. Reg. 6956; amended at 13 Ill. Reg. 559, effective January 1, 1989; amended at 13 Ill. Reg. 7043, effective April 24, 1989; emergency amendment at 13 Ill. Reg. 10999, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 16796, effective October 13, 1989; amended at 14 Ill. Reg. 210, effective December 21, 1989; emergency amendment at 14 Ill. Reg. 6915, effective April 19, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 9523, effective June 4, 1990, for a maximum of 150 days; emergency expired November 1, 1990; emergency amendment at 14 Ill. Reg. 14203, effective August 16, 1990, for a maximum of 150 days; emergency expired January 13, 1991; emergency amendment at 14 Ill. Reg. 15578, effective September 11, 1990, for a maximum of 150 days; emergency expired February 8, 1991; amended at 14 Ill. Reg. 16669, effective September 27, 1990; amended at 15 Ill. Reg. 2715, effective January 30, 1991; amended at 15 Ill. Reg. 3058, effective February 5, 1991; amended at 15 Ill. Reg. 6238, effective April 18, 1991; amended at 15 Ill. Reg. 7162, effective April 30, 1991; amended at 15 Ill. Reg. 9001, effective June 17, 1991; amended at 15 Ill. Reg. 13390, effective August 28, 1991; emergency amendment at 15 Ill. Reg. 16435, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 4035, effective March 4, 1992; amended at 16 Ill. Reg. 6479, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 13361, effective August 14, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 14233, effective August 31, 1992; amended at 16 Ill. Reg. 17332, effective November 6, 1992; amended at 17 Ill. Reg. 1128, effective January 12, 1993; amended at 17 Ill. Reg. 8486, effective June 1, 1993; amended at 17 Ill. Reg. 13498, effective August 6, 1993; emergency amendment at 17 Ill. Reg. 15189, effective

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September 2, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 2405, effective January 25, 1994; amended at 18 Ill. Reg. 4271, effective March 4, 1994; amended at 19 Ill. Reg. 7944, effective June 5, 1995; amended at 20 Ill. Reg. 6953, effective May 6, 1996; amended at 21 Ill. Reg. 12203, effective August 22, 1997; amended at 26 Ill. Reg. 3093, effective February 15, 2002; emergency amendment at 27 Ill. Reg. 10863, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18680, effective November 26, 2003; expedited correction at 28 Ill. Reg. 4992, effective November 26, 2003; emergency amendment at 29 Ill. Reg. 10266, effective July 1, 2005, for a maximum of 150 days.

Section 147.150 Minimum Data Set (MDS) Based Reimbursement System**EMERGENCY**

- a) Public Act 92-0848 requires the Department to implement, effective July 1, 2003, a payment methodology for the nursing component of the rate paid to nursing facilities. Reimbursement for this component shall be calculated using the Minimum Data Set (MDS). Increased reimbursement under this payment methodology shall be paid only if specific appropriation for this purpose is enacted by the General Assembly.
- b) The nursing component of the rate shall be calculated annually and may be adjusted quarterly. The determination of rates shall be based upon a composite of MDS data collected from each eligible resident in accordance with Section 147. Table A for those eligible residents who are recorded in the Department's Medicaid Management Information System as of 30 days prior to the rate period as present in the facility on the last day of the second quarter preceding the rate period. Residents for whom MDS resident identification information is missing or inaccurate, or for whom there is no current MDS record for that quarter, shall be placed in the lowest MDS acuity level for calculation purposes for that quarter. The nursing component of the rate may be adjusted on a quarterly basis if any of the following conditions are met:
 - 1) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section exceeds total variable nursing time calculated for the previous rate quarter by more than five percent.
 - 2) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section exceeds:
 - A) total variable nursing time as calculated for the annual rate period by more than ten percent;

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- B) total variable nursing time as recalculated and adjusted for the annual period by more than five percent.
- 3) Total variable nursing time for a rate quarter as calculated in subsection (c)(1) of this Section declines from the total variable nursing time as calculated for the annual period by more than five percent. No quarterly nursing component rate reduction shall exceed five percent from the previous rate quarter.
- c) Per diem reimbursement rates for nursing care in nursing facilities consist of three elements: variable time reimbursement; fringe benefit reimbursement; and reimbursement for supplies, consultants, medical directors and nursing directors.
 - 1) Variable Time Reimbursement. Variable nursing time is that time necessary to meet the major service needs of residents that vary due to their physical or mental conditions. Each need level or specific nursing service measured by the Resident Assessment Instrument is associated with an amount of time and staff level (Section 147. Table A). Reimbursement is developed by multiplying the time for each service by the wage(s) of the type of staff performing the service except for occupational therapy, physical therapy and speech therapy. If more than one level of staff are involved in delivering a service, reimbursement for that service will be weighted by the wage and number of minutes allocated to each staff type. When a service can be provided by either a registered nurse (RN) or licensed practical nurse (LPN), the wage used will be weighted by the average mix of RNs and LPNs in the sample of facilities used to set rates. In calculating a facility's rate, the figures used by the Department for wages will be determined in the following manner:
 - A) The mean wages for the applicable staff levels (RNs, LPNs, certified nursing assistants (CNAs), activity staff, social workers), as reported on the cost reports and determined by regional rate area, will be the mean wages.
 - B) Fringe benefits will be the average percentage of benefits to actual salaries of all nursing facilities based upon cost reports filed pursuant to 89 Ill. Adm. Code 140.543. Fringe benefits will be added to the mean wage.

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- C) The base wage, including fringe benefits, will then be updated for inflation from the time period for which the wage data are available to the midpoint of the rate year to recognize projected base wage changes.
- D) Special minimum wage factor. The process used in subsection (c)(1)(A) of this Section to determine regional mean wages for RNs, LPNs and CNAs will include a minimum wage factor. For those facilities below 90% of the Statewide average, the wage is replaced by 90% of the Statewide average.
- E) On July 1 of each year beginning July 1, 2003, the base wage calculated in subsection (c)(1)(C) of this Section shall be multiplied by a ratio:
- i) The numerator of which is the quotient obtained by dividing the amounts estimated by the Department to be available in the rate period for the nursing component of the rate Statewide by the Department's estimate of the number of patient days Statewide for the rate period eligible for reimbursement from the Department.
 - ii) The denominator of which shall be the mean Statewide base rate per patient day.
- 2) Vacation, Sick Leave and Holiday Time. The time to be added for vacation, sick leave, and holidays will be determined by multiplying the total of Variable Time by 5%.
- 3) Special Supplies, Consultants and the Director of Nursing. Reimbursement will be made for health care and program supplies, consultants required by the Department of Public Health (including the Medical Director), and the Director of Nursing by applying a factor to variable time and vacation, sick leave and holiday time. (A list of consultants required by the Department of Public Health can be found in 77 Ill. Adm. Code 300.830).
- A) Supplies will be updated for inflation using the General Services Inflator (see 89 Ill. Adm. Code 140.551). Health care and program salaries shall be updated for inflation using the Nursing and

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Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for supplies will be the Statewide mean of the ratio of total facility health care and programs supply costs to total facility health care and programs salaries.

- B) The Director of Nursing and the consultants will be updated for inflation using the Nursing and Program Inflator (see 89 Ill. Adm. Code 140.552). A factor for the Director of Nursing and consultant costs shall be the Statewide mean of the ratio of all facilities Director of Nursing and consultant costs to total facility health care and programs salaries.
- C) These costs shall be updated pursuant to cost reports as referenced in 89 Ill. Adm. Code 153.125(f).
- d) **Determination of Facility Rates.**
An amount for each resident will be calculated by multiplying the number of minutes from the assessment by the appropriate wages for each assessment item (see subsection (c)(1) of this Section), adding the amounts for vacation, sick and holiday time (see subsection (c)(2) of this Section), and supplies, consultants, and the Director of Nursing (see subsection (c)(3) of this Section). The average of the rates for eligible residents assessed will become the facility's per diem reimbursement rate for each eligible resident in the facility.
- e) A transition period from the payment methodology in effect on June 30, 2003, to the payment methodology in effect July 1, 2003, shall be provided for a period not exceeding June 30, 2005, as follows:
- 1) MDS-based rate adjustments under this Section shall not be effective until the attainment of a threshold. The threshold shall be attained at the earlier of either:
 - A) when all nursing facilities have established a rate (sum of all components) which is no less than the rate effective June 30, 2002, or
 - B) July 1, ~~2006~~2005.
 - 2) For a facility that would receive a lower nursing component rate per resident day under the payment methodology effective July 1, 2003, than

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the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be held at the level in effect on June 30, 2003, until a higher nursing component rate of reimbursement is achieved by that facility.

- 3) For a facility that would receive a higher nursing component rate per resident day under the payment methodology in effect on July 1, 2003, than the facility received June 30, 2003, the nursing component rate per resident day for the facility shall be adjusted based on the payment methodology in effect July 1, 2003.
- 4) Notwithstanding subsections (e)(2) and (3) of this Section, the nursing component rate per resident day for the facility shall be adjusted in accordance with subsection (c)(1)(E) of this Section.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10266, effective July 1, 2005, for a maximum of 150 days)

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- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: Emergency Action:
148.105 Amendment
148.295 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 94-0048
- 5) Effective Date: July 1, 2005
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: No
- 7) Date Filed with the Index Department: June 30, 2005
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments concerning hospital services are being filed pursuant to the enactment of the State's budget plan for fiscal year 2006. The amendments provide additional funding for inpatient psychiatric services and Critical Hospital Adjustment Payments and thereby preserve and improve access for the Department's medical assistance clients to psychiatric care and other medical services. Immediate implementation of these changes is necessary to ensure the availability of essential medical care. Section 5-45 of Public Act 94-0048 specifically authorizes emergency rulemaking for the implementation of these changes for fiscal year 2006.
- 10) Complete Description of the Subjects and Issues Involved: These proposed amendments concerning Hospital Services pertain to psychiatric adjustment payments and Critical Hospital Adjustment Payments (CHAP). The changes are necessary to provide additional funding for inpatient psychiatric services and CHAP and thereby assure continued access for the Department's medical assistance clients to essential psychiatric care and other medical services.

These proposed changes are expected to result in additional annual expenditures of approximately \$1.2 million for psychiatric adjustment payments and \$1.8 million for CHAP.

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- 11) Are there any other amendments pending on this Part? Yes

| <u>Section Numbers:</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|-------------------------|------------------------|--------------------------------------|
| 148.105 | Amendment | May 27, 2005 (29 Ill. Reg. 7693) |
| 148.295 | Amendment | February 18, 2005 (29 Ill. Reg.2654) |
| 148.295 | Amendment | May 27, 2005 (29 Ill. Reg. 7693) |
| 148.310 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.402 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.404 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.406 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.408 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.410 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.412 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.414 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.416 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.418 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.420 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.422 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.424 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.426 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.428 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.430 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.432 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |
| 148.434 | Amendment | July 1, 2005 (29 Ill. Reg.9241) |

- 12) Statement of Statewide Policy Objective: These emergency amendments neither create nor expand any State mandate affecting units of local government.

- 13) Information and questions regarding these emergency amendments shall be directed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

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TITLE 89: SOCIAL SERVICES

| CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES ~~PUBLIC AID~~
SUBCHAPTER d: MEDICAL PROGRAMSPART 148
HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section

| | |
|--------|-------------------------------------------|
| 148.10 | Hospital Services |
| 148.20 | Participation |
| 148.25 | Definitions and Applicability |
| 148.30 | General Requirements |
| 148.40 | Special Requirements |
| 148.50 | Covered Hospital Services |
| 148.60 | Services Not Covered as Hospital Services |
| 148.70 | Limitation On Hospital Services |

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section

| | |
|------------------|-----------------------------------------------------------------|
| 148.80 | Organ Transplants Services Covered Under Medicaid (Repealed) |
| 148.82 | Organ Transplant Services |
| 148.85 | Supplemental Tertiary Care Adjustment Payments |
| 148.90 | Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments |
| 148.95 | Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments |
| 148.100 | Outpatient Rural Hospital Adjustment Payments |
| 148.103 | Outpatient Service Adjustment Payments |
| 148.105 | Psychiatric Adjustment Payments |
| <u>EMERGENCY</u> | |
| 148.110 | Psychiatric Base Rate Adjustment Payments |
| 148.112 | High Volume Adjustment Payments |
| 148.115 | Rural Adjustment Payments |
| 148.120 | Disproportionate Share Hospital (DSH) Adjustments |
| 148.122 | Medicaid Percentage Adjustments |
| 148.126 | Safety Net Adjustment Payments |
| 148.130 | Outlier Adjustments for Exceptionally Costly Stays |
| 148.140 | Hospital Outpatient and Clinic Services |
| 148.150 | Public Law 103-66 Requirements |

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- 148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
- 148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
- 148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions
- 148.230 Admissions Occurring on or after September 1, 1991
- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates
- 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments (CHAP)
- EMERGENCY
- 148.296 Tertiary Care Adjustment Payments
- 148.297 Pediatric Outpatient Adjustment Payments
- 148.298 Pediatric Inpatient Adjustment Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
- 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services

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- (Repealed)
148.390 Hearings
148.400 Special Hospital Reporting Requirements

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

- Section
148.500 Definitions
148.510 Reimbursement

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

- Section
148.600 Definitions
148.610 Scope of the Program
148.620 Assistance Level and Reimbursement
148.630 Criteria and Information Required to Establish Eligibility
148.640 Covered Services

- 148.TABLE A Renal Participation Fee Worksheet
148.TABLE B Bureau of Labor Statistics Equivalence
148.TABLE C List of Metropolitan Counties by SMSA Definition

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150

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days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359,

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effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21,

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2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.105 Psychiatric Adjustment Payments**EMERGENCY**

- a) **Qualifying Criteria**
Psychiatric Adjustment Payments shall be made to a qualifying hospital, as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it meets one of the following criteria as of July 1, 2002:
- 1) The hospital is located in Illinois; is a general acute care hospital with a distinct part unit as defined in 89 Ill. Adm. Code 149.50(d)(1) enrolled with the Department to provide inpatient psychiatric services; has a current psychiatric care per diem rate less than the statewide psychiatric distinct part unit average default rate; is located outside of HSA 6; and has a MIUR as described in subsection (e)(5) of this Section that is greater than 60 percent.
 - 2) The hospital is located in Illinois; is a general acute care hospital with a distinct part unit as defined in 89 Ill. Adm. Code 149.50(d)(1) enrolled with the Department to provide inpatient psychiatric services; has a current psychiatric care per diem rate less than the statewide psychiatric distinct part unit average default rate; is located outside of HSA 6; has a MIUR as described in subsection (e)(5) that is greater than 20 percent; has greater than 325 total licensed beds as described in subsection (e)(2) of this Section; and has a psychiatric occupancy rate described in subsection (e)(4) of this Section that is greater than 50 percent.
 - 3) The hospital is located in Illinois; is a general acute care hospital with a distinct part unit as defined in 89 Ill. Adm. Code 149.50(d)(1) enrolled with the Department to provide inpatient psychiatric services; has a current psychiatric care per diem rate less than the statewide psychiatric distinct part unit average default rate; is located outside of HSA 6; has a MIUR as described in subsection (e)(5) of this Section that is greater than

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15 percent; has greater than 500 total licensed beds as described in subsection (e)(2) of this Section; has a psychiatric occupancy rate as described in subsection (e)(4) of this Section that is greater than 35 percent; and has total licensed psychiatric beds described in subsection (e)(3) of this Section that is greater than 50.

- 4) The hospital is located in Illinois; is a general acute care hospital with a distinct part unit as defined in 89 Ill. Adm. Code 149.50(d)(1) enrolled with the Department to provide inpatient psychiatric services; has a current psychiatric care per diem rate less than the statewide psychiatric distinct part unit average default rate; is located outside of HSA 6; has a MIUR as described in subsection (e)(5) of this Section that is greater than 19 percent; has less than 275 total licensed beds as described in subsection (e)(2) of this Section; has fewer than 1,000 total psychiatric care days as described in subsection (e)(8) of this Section; has 40 or fewer total licensed psychiatric beds as described in subsection (e)(3) of this Section; has greater than 6,000 total days as described in subsection (e)(9) of this Section.

- 5) The hospital is located in Illinois; is a general acute care hospital with a distinct part unit as defined in 89 Ill. Adm. Code 149.50(d)(1) enrolled with the Department to provide inpatient psychiatric services; has a current psychiatric care per diem rate less than the statewide psychiatric distinct part unit average default rate; is located outside of HSA 6; has 50 or more total licensed psychiatric beds as described in subsection (e)(3) of this Section; and has a psychiatric occupancy rate described in subsection (e)(4) of this Section that is greater than 60 percent.

- b) The following five classes of hospitals are ineligible for Psychiatric Adjustment Payments associated with the qualifying criteria listed in subsections (a)(1) through (a)(4) of this Section:

- 1) Hospitals located outside of Illinois.
- 2) Hospitals located inside HSA 6.
- 3) Psychiatric hospitals, as described in 89 Ill. Adm. Code 149.50(c)(1).
- 4) Long term stay hospitals, as described in 89 Ill. Adm. Code 149.50(c)(4).

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- 5) A children's hospital, as described in 89 Ill. Adm. Code 149.50(c)(3).
- c) Psychiatric Adjustment Payment Rates
- 1) For a hospital qualifying under subsection (a)(1) of this Section, the rate is \$63.00.
 - 2) For a hospital qualifying under subsection (a)(2) of this Section that:
 - A) Has less than 10,000 total days, the rate is \$78.00.
 - B) Has equal to or greater than 10,000 total days, the rate is \$125.00.
 - 3) For a hospital qualifying under subsection (a)(3) of this Section, the rate is \$21.00.
 - 4) For a hospital qualifying under subsection (a)(4) of this Section, the rate is \$38.00.
 - 5) For a hospital qualifying under subsection (a)(5) of this Section, the rate is \$140.00
- d) Payment to a Qualifying Hospital
- 1) The total annual adjustment amount to a qualifying hospital shall be the product of the appropriate psychiatric adjustment payment rate, as described in subsection (c) of this Section, multiplied by total days as described in subsection (e)(9) of this Section.
 - 2) The total annual adjustment amount shall be paid to the hospital during the Psychiatric Adjustment Payment period in installments on, at least, a quarterly basis.
- e) Definitions
- 1) "HSA" means Health Service Area, as defined by the Illinois Department of Public Health.
 - 2) "Total licensed beds" means, for a given hospital, the number of licensed beds, excluding long term care and substance abuse beds, as listed in the

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July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois".

- 3) "Licensed psychiatric beds" means, for a given hospital, the number of psychiatric licensed beds, as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois".
- 4) "Psychiatric occupancy rate" means, for a given hospital, the psychiatric hospital occupancy rate as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois".
- 5) "MIUR" for a given hospital, has the meaning as defined in Section 148.120(k)(5), and shall be determined in accordance with Sections 148.120(c) and (f). For purposes of this rulemaking, the MIUR determination that was used to determine a hospital's eligibility for Disproportionate Share Hospital Adjustment Payments in rate year 2002 shall be the same determination used to determine a hospital's eligibility for Psychiatric Adjustment Payments in the Psychiatric Adjustment Payment Period.
- 6) "Psychiatric Adjustment Payment base year" means the 12-month period beginning on July 1, 2000, and ending on June 30, 2001.
- 7) "Psychiatric Adjustment Payment period" means, beginning October 1, 2002, the nine month period beginning October 1 and ending June 30 of the following year, and beginning July 1, 2003, the 12 month period beginning July 1 of the year and ending June 30 of the following year.
- 8) "Total psychiatric care days" means, for a given hospital, the sum of days of inpatient psychiatric care, as defined in Section 148.40(a), provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's claims data for admissions occurring in the Psychiatric Adjustment Payment base year that were adjudicated by the Department through June 30, 2001.

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- 9) "Total days" means, for a given hospital, the sum of days of inpatient hospital services provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's claims data for admissions occurring in the Psychiatric Adjustment Payment base year that were adjudicated by the Department through June 30, 2001.
- 10) "Psychiatric care average length of stay" means the quotient of the fraction, the numerator of which is the number of psychiatric care days in the Psychiatric Adjustment Payment base year, the denominator of which is the number of admissions in the Psychiatric Adjustment Payment base year.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days)

Section 148.295 Critical Hospital Adjustment Payments (CHAP)**EMERGENCY**

Critical Hospital Adjustment Payments (CHAP) shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), unless otherwise noted in this Section, and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient admissions occurring on or after July 1, 1998, in accordance with this Section.

- a) Trauma Center Adjustments (TCA)
The Department shall make a TCA to Illinois hospitals recognized, as of the first day of July in the CHAP rate period, as a Level I or Level II trauma center by the Illinois Department of Public Health (IDPH) in accordance with the provisions of subsections (a)(1) through (a)(3) of this Section.
 - 1) Level I Trauma Center Adjustment.
 - A) Criteria. Illinois hospitals that, on the first day of July in the CHAP rate period, are recognized as a Level I trauma center by the Illinois Department of Public Health shall receive the Level I trauma center adjustment.

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- B) Adjustment. Illinois hospitals meeting the criteria specified in subsection (a)(1)(A) of this Section shall receive an adjustment as follows:
- i) Hospitals with Medicaid trauma admissions equal to or greater than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of \$21,365.00 per Medicaid trauma admission in the CHAP base period.
 - ii) Hospitals with Medicaid trauma admissions less than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of \$14,165.00 per Medicaid trauma admission in the CHAP base period.
- 2) Level II Rural Trauma Center Adjustment. Illinois rural hospitals, as defined in Section 148.25(g)(3), that, on the first day of July in the CHAP rate period, are recognized as a Level II trauma center by the Illinois Department of Public Health shall receive an adjustment of \$11,565.00 per Medicaid trauma admission in the CHAP base period.
- 3) Level II Urban Trauma Center Adjustment. Illinois urban hospitals, as described in Section 148.25(g)(4), that, on the first day of July in the CHAP rate period, are recognized as Level II trauma centers by the Illinois Department of Public Health shall receive an adjustment of \$11,565.00 per Medicaid trauma admission in the CHAP base period, provided that such hospital meets the criteria described below:
- A) The hospital is located in a county with no Level I trauma center; and
 - B) The hospital is located in a Health Professional Shortage Area (HPSA) (42 CFR 5), as of the first day of July in the CHAP rate period, and has a Medicaid trauma admission percentage at or above the mean of the individual facility values determined in subsection (a)(3) of this Section; or the hospital is not located in an HPSA and has a Medicaid trauma admission percentage that is at least the mean plus one standard deviation of the individual facility values determined in subsection (a)(3) of this Section.

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- b) **Rehabilitation Hospital Adjustment (RHA)**
Illinois hospitals that, on the first day of July in the CHAP rate period, qualify as rehabilitation hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(2), and that are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), shall receive a rehabilitation hospital adjustment in the CHAP rate period that consists of the following three components:
- 1) **Treatment Component.** All hospitals defined in subsection (b) of this Section shall receive \$4,215.00 per Medicaid Level I rehabilitation admission in the CHAP base period.
 - 2) **Facility Component.** All hospitals defined in subsection (b) of this Section shall receive a facility component that shall be based upon the number of Medicaid Level I rehabilitation admissions in the CHAP base period as follows:
 - A) Hospitals with fewer than 60 Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of \$229,360.00 in the CHAP rate period.
 - B) Hospitals with 60 or more Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of \$527,528.00 in the CHAP rate period.
 - 3) **Health Professional Shortage Area Adjustment Component.** Hospitals defined in subsection (b) of this Section that are located in an HPSA on July 1, 1999, shall receive \$276.00 per Medicaid Level I rehabilitation inpatient day in the CHAP base period.
- c) **Direct Hospital Adjustment (DHA) Criteria**
- 1) **Qualifying Criteria**
Hospitals may qualify for the DHA under this subsection (c) under the following categories:
 - A) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals and long term stay hospitals, all other hospitals located in Health Service Area (HSA) 6 that either:

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- i) were eligible for Direct Hospital Adjustments under the CHAP program as of July 1, 1999, and had a Medicaid inpatient utilization rate (MIUR) equal to or greater than the statewide mean in Illinois on July 1, 1999;
 - ii) were eligible under the Supplemental Critical Hospital Adjustment Payment (SCHAP) program as of July 1, 1999, and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999; or
 - iii) were county owned hospitals as defined in 89 Ill. Adm. Code 148.25(b)(1)(A), and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999.
- B) Illinois hospitals located outside of HSA 6 that had an MIUR greater than 60 percent on July 1, 1999, and an average length of stay less than ten days. The following hospitals are excluded from qualifying under this subsection (c)(1)(B): children's hospitals; psychiatric hospitals; rehabilitation hospitals; and long term stay hospitals.
- C) Children's hospitals, as defined under 89 Ill. Adm. Code 149.50(c)(3), on July 1, 1999.
- D) Illinois teaching hospitals, with more than 40 graduate medical education programs on July 1, 1999, not qualifying in subsection (c)(1)(A), (B), or (C) of this Section.
- E) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals qualifying in subsection (c)(1)(A), (B), (C) or (D) of this Section, all other hospitals located in Illinois that had an MIUR equal to or greater than the mean plus one-half standard deviation on July 1, 1999, and provided more than 15,000 Total days.
- F) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in

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subsection (c)(1)(A), (B), (C), (D), or (E) of this Section, all other hospitals that had an MIUR greater than 40 percent on July 1, 1999, and provided more than 7,500 Total days and provided obstetrical care as of July 1, 2001.

- G) Illinois teaching hospitals with 25 or more graduate medical education programs on July 1, 1999, that are affiliated with a Regional Alzheimer's Disease Assistance Center as designated by the Alzheimer's Disease Assistance Act [410 ILCS 405/4], that had an MIUR less than 25 percent on July 1, 1999, and provided 75 or more Alzheimer days for patients diagnosed as having the disease.
- H) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(G) of this Section, all other hospitals that had an MIUR greater than 50 percent on July 1, 1999.

2) DHA Rates

- A) For hospitals qualifying under subsection (c)(1)(A) of this Section, the DHA rates are as follows:
 - i) Hospitals that have a Combined MIUR that is equal to or greater than the Statewide mean Combined MIUR, but less than one standard deviation above the Statewide mean Combined MIUR, will receive \$69.00 per day for hospitals that do not provide obstetrical care and \$105.00 per day for hospitals that do provide obstetrical care.
 - ii) Hospitals that have a Combined MIUR that is equal to or greater than one standard deviation above the Statewide mean Combined MIUR, but less than one and one-half standard deviation above the Statewide mean Combined MIUR, will receive \$105.00 per day for hospitals that do not provide obstetrical care and \$142.00 per day for hospitals that do provide obstetrical care.

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- iii) Hospitals that have a Combined MIUR that is equal to or greater than one and one-half standard deviation above the Statewide mean Combined MIUR, but less than two standard deviations above the Statewide mean Combined MIUR, will receive \$124.00 per day for hospitals that do not provide obstetrical care and \$160.00 per day for hospitals that do provide obstetrical care.
 - iv) Hospitals that have a Combined MIUR that is equal to or greater than two standard deviations above the Statewide mean Combined MIUR will receive \$142.00 per day for hospitals that do not provide obstetrical care and \$179.00 per day for hospitals that do provide obstetrical care.
- B) Hospitals qualifying under subsection (c)(1)(A) of this Section will also receive the following rates:
- i) County owned hospitals as defined in Section 148.25 with more than 30,000 Total days will have their rate increased by \$455.00 per day.
 - ii) Hospitals that are not county owned with more than 30,000 Total days will have their rate increased by \$330.00 per day.
 - iii) Hospitals with more than 80,000 Total days will have their rate increased by an additional \$423.00 per day.
 - iv) Hospitals with more than 4,500 Obstetrical days will have their rate increased by \$101.00 per day.
 - v) Hospitals with more than 5,500 Obstetrical days will have their rate increased by an additional \$194.00 per day.
 - vi) Hospitals with an MIUR greater than 74 percent will have their rate increased by \$147.00 per day.
 - vii) Hospitals with an average length of stay less than 3.9 days will have their rate increased by \$41.00 per day.

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- viii) Hospitals with an MIUR greater than the statewide mean plus one standard deviation that are designated a Perinatal Level 2 Center and have one or more obstetrical graduate medical education programs as of July 1, 1999, will have their rate increased by \$227.00 per day.
 - ix) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an average length of stay less than four days will have their rate increased by \$182.25 per day.
 - x) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an MIUR greater than 60 percent will have their rate increased by ~~\$202.00~~ \$281.00 per day.
 - xi) Hospitals receiving payments under subsection (c)(2)(A)(iv) of this Section that have an MIUR greater than 70 percent and have more than 20,000 days will have their rate increased by \$98.00 per day.
- C) Hospitals qualifying under subsection (c)(1)(B) of this Section will receive the following rates:
- i) Qualifying hospitals will receive a rate of \$421.00 per day.
 - ii) Qualifying hospitals with more than 1,500 Obstetrical days will have their rate increased by \$369.00 per day.
- D) Hospitals qualifying under subsection (c)(1)(C) of this Section will receive the following rates:
- i) Hospitals will receive a rate of \$28.00 per day.
 - ii) Hospitals located in Illinois and outside of HSA 6 that have an MIUR greater than 60 percent will have their rate increased by \$55.00 per day.
 - iii) Hospitals located in Illinois and inside HSA 6 that have an MIUR greater than 80 percent will have their rate increased by \$573.00 per day.

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- iv) Hospitals that are not located in Illinois that have an MIUR greater than 45 percent will have their rate increased by \$32.00 per day for hospitals that have fewer than 4,000 Total days; or \$246.00 per day for hospitals that have more than 4,000 Total days but fewer than 8,000 Total days; or \$178.00 per day for hospitals that have more than 8,000 Total days.
- v) Hospitals with more than 3,200 Total admissions will have their rate increased by \$248.00 per day.
- E) Hospitals qualifying under subsection (c)(1)(D) of this Section will receive the following rates:
 - i) Hospitals will receive a rate of \$41.00 per day.
 - ii) Hospitals with an MIUR between 18 percent and 19.75 percent will have their rate increased by an additional \$14.00 per day.
 - iii) Hospitals with an MIUR equal to or greater than 19.75 percent will have their rate increased by an additional \$87.00 per day.
 - iv) Hospitals with a combined MIUR that is equal to or greater than 35 percent will have their rate increased by an additional \$41.00 per day.
- F) Hospitals qualifying under subsection (c)(1)(E) of this Section will receive \$188.00 per day.
- G) Hospitals qualifying under subsection (c)(1)(F) of this Section will receive a rate of \$55.00 per day.
- H) Hospitals that qualify under subsection (c)(1)(G) of this Section will receive the following rates:
 - i) Hospitals with an MIUR greater than 19.75 percent will receive a rate of \$69.00 per day.

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- ii) Hospitals with an MIUR equal to or less than 19.75 percent will receive a rate of \$11.00 per day.
 - I) Hospitals qualifying under subsection (c)(1)(H) of this Section will receive a rate of \$268.00 per day.
 - J) Hospitals that qualify under subsection (c)(1)(A)(iii) of this Section will have their rates multiplied by a factor of two. The payments calculated under this Section to hospitals that qualify under subsection (c)(1)(A)(iii) of this Section may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations. A portion of the payments calculated under this Section may be classified as disproportionate share adjustments for hospitals qualifying under subsection (c)(1)(A)(iii) of this Section.
- 3) DHA Payments
- A) Payments under this subsection (c) will be made at least quarterly, beginning with the quarter ending December 31, 1999.
 - B) Payment rates will be multiplied by the Total days.
 - C) Total Payment Adjustments
 - i) For the CHAP rate period occurring in State fiscal year 2004, total payments will equal the methodologies described in subsection (c)(2) of this Section. For the period April 1, 2004, to June 30, 2004, payment will equal the State fiscal year 2004 amount less the amount the hospital received under DHA for the quarters ending September 30, 2003, December 31, 2003, and March 31, 2004.
 - ii) For CHAP rate periods occurring after State fiscal year 2004, total payments will equal the methodologies described in subsection (c)(2) of this Section.
- d) Rural Critical Hospital Adjustment Payments (RCHAP)

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RCHAP shall be made to rural hospitals, as described in 89 Ill. Adm. Code 140.80(j)(1), for certain inpatient admissions. The hospital qualifying under this subsection that has the highest number of Medicaid obstetrical care admissions during the CHAP base period shall receive \$367,179.00 per year. The Department shall also make an RCHAP to hospitals qualifying under this subsection at a rate that is the greater of:

- 1) the product of \$1,367.00 multiplied by the number of RCHAP Obstetrical Care Admissions in the CHAP base period, or
 - 2) the product of \$138.00 multiplied by the number of RCHAP General Care Admissions in the CHAP base period.
- e) **Total CHAP Adjustments**
Each eligible hospital's critical hospital adjustment payment shall equal the sum of the amounts described in subsections (a), (b), (c) and (d) of this Section. The critical hospital adjustment payments shall be paid at least quarterly.
- f) **Critical Hospital Adjustment Limitations**
Hospitals that qualify for trauma center adjustments under subsection (a) of this Section shall not be eligible for the total trauma center adjustment if, during the CHAP rate period, the hospital is no longer recognized by the Illinois Department of Public Health as a Level I trauma center as required for the adjustment described in subsection (a)(1) of this Section, or a Level II trauma center as required for the adjustment described in subsection (a)(2) or (a)(3) of this Section. In these instances, the adjustments calculated shall be pro-rated, as applicable, based upon the date that such recognition ceased.
- g) **Critical Hospital Adjustment Payment Definitions**
The definitions of terms used with reference to calculation of the CHAP required by this Section are as follows:
- 1) "Alzheimer days" means total paid days contained in the Department's paid claims database with a ICD-9-CM diagnosis code of 331.0 for dates of service occurring in State fiscal year 2001 and adjudicated through June 30, 2002.
 - 2) "CHAP base period" means State Fiscal Year 1994 for CHAP calculated for the July 1, 1995, CHAP rate period; State Fiscal Year 1995 for CHAP calculated for the July 1, 1996, CHAP rate period; etc.

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- 3) "CHAP rate period" means, beginning July 1, 1995, the 12 month period beginning on July 1 of the year and ending June 30 of the following year.
- 4) "Combined MIUR" means the sum of Medicaid Inpatient Utilization Rate (MIUR) as of July 1, 1999, and as defined in Section 148.120(k)(5), plus the Medicaid obstetrical inpatient utilization rate, as described in Section 148.120(k)(6), as of July 1, 1999.
- 5) "Medicaid general care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns, Medicare/Medicaid crossover admissions, psychiatric and rehabilitation admissions.
- 6) "Medicaid Level I rehabilitation admissions" means those claims billed as Level I admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 054.3, 310.1 through 310.2, 320.1, 336.0 through 336.9, 344.0 through 344.2, 344.8 through 344.9, 348.1, 801.30, 803.10, 803.84, 806.0 through 806.19, 806.20 through 806.24, 806.26, 806.29 through 806.34, 806.36, 806.4 through 806.5, 851.06, 851.80, 853.05, 854.0 through 854.04, 854.06, 854.1 through 854.14, 854.16, 854.19, 905.0, 907.0, 907.2, 952.0 through 952.09, 952.10 through 952.16, 952.2, and V57.0 through V57.89, excluding admissions for normal newborns.
- 7) "Medicaid Level I rehabilitation inpatient day" means the days associated with the claims defined in subsection (g)(5) of this Section.
- 8) "Medicaid obstetrical care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of Social Security Act, with Diagnosis Related Grouping (DRG) of 370 through 375; and specifically excludes Medicare/Medicaid crossover claims.

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- 9) "Medicaid trauma admission" means those claims billed as admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 800.0 through 800.99, 801.0 through 801.99, 802.0 through 802.99, 803.0 through 803.99, 804.0 through 804.99, 805.0 through 805.98, 806.0 through 806.99, 807.0 through 807.69, 808.0 through 808.9, 809.0 through 809.1, 828.0 through 828.1, 839.0 through 839.3, 839.7 through 839.9, 850.0 through 850.9, 851.0 through 851.99, 852.0 through 852.59, 853.0 through 853.19, 854.0 through 854.19, 860.0 through 860.5, 861.0 through 861.32, 862.8, 863.0 through 863.99, 864.0 through 864.19, 865.0 through 865.19, 866.0 through 866.13, 867.0 through 867.9, 868.0 through 868.19, 869.0 through 869.1, 887.0 through 887.7, 896.0 through 896.3, 897.0 through 897.7, 900.0 through 900.9, 902.0 through 904.9, 925, 926.8, 929.0 through 929.99, 958.4, 958.5, 990 through 994.99.
- 10) "Medicaid trauma admission percentage" means a fraction, the numerator of which is the hospital's Medicaid trauma admissions and the denominator of which is the total Medicaid trauma admissions in a given 12 month period for all Level II urban trauma centers.
- 11) "RCHAP general care admissions" means Medicaid General Care Admissions, as defined in subsection (g)(4) of this Section, less RCHAP Obstetrical Care Admissions, occurring in the CHAP base period.
- 12) "RCHAP obstetrical care admissions" means Medicaid Obstetrical Care Admissions, as defined in subsection (g)(7) of this Section, with a Diagnosis Related Grouping (DRG) of 370 through 375, occurring in the CHAP base period.
- 13) "Total admissions" means total paid admissions contained in the Department's paid claims database, including obstetrical admissions multiplied by two and excluding Medicare crossover admissions, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.
- 14) "Total days" means total paid days contained in the Department's paid claims database, including obstetrical days multiplied by two and

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excluding Medicare crossover days, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.

- 15) "Total obstetrical days" means hospital inpatient days for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5th digit of 1 or 2; 650; 651.0 through 659.9 with a 5th digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5th digit of 1, 2, 3, or 4; 670.0 through 676.9 with a 5th digit of 1 or 2; V27 through V27.9; V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99; and specifically excludes Medicare/Medicaid crossover claims.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days)

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- 1) Heading of the Part: Hospital Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 152
- 3) Section Numbers: Emergency Action:
152.150 Amendment
152.200 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]and Public Act 94-0048
- 5) Effective Date of Amendments: July 1, 2005
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: No
- 7) Date Filed with the Index Department: June 30, 2005
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments concerning hospital services are being filed pursuant to the enactment of the State's budget plan for fiscal year 2006. Under these amendments, the hospital outlier calculation methodology is being revised to slow the growth of anticipated future reimbursement for outlier adjustment payments and thereby control spending. Immediate implementation of these changes is necessary to ensure that costs related to exceptionally costly stays provided by Medicaid funded hospitals are maintained within necessary budgetary constraints. Section 5-45 of Public Act 94-0048 specifically authorizes emergency rulemaking for the implementation of these changes for fiscal year 2006.
- 10) Complete Description of the Subjects and Issues Involved: These emergency amendments provide changes concerning outlier adjustment payments for exceptionally costly stays provided by hospitals. Under these changes, which are applicable to hospitals reimbursed on a per diem basis and under the Diagnosis Related Grouping (DRG) Prospective Payment System (PPS), the hospital outlier calculation methodology is being revised to slow the growth of anticipated future reimbursement for outlier adjustments and thereby control spending. A net reduction in current funding levels is not expected. This cost saving reform, which is a component of the fiscal year 2006 budget, is expected to result in a savings to the Department of approximately \$40 million.

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- 11) Are there any other amendments pending on this Part? Yes

| <u>Section Numbers:</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|-------------------------|------------------------|-----------------------------------|
| 152.150 | Amendment | May 27, 2005 (29 Ill. Reg. 7718) |
| 152.200 | Amendment | May 27, 2005 (29 Ill. Reg. 7718) |

- 12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any State mandate affecting units of local government.

- 13) Information and questions regarding these amendments shall be directed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES ~~PUBLIC AID~~
SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 152

HOSPITAL REIMBURSEMENT CHANGES

Section

- 152.100 Reimbursement Add-on Adjustments (Repealed)
152.150 Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)
EMERGENCY
152.200 Non-DRG Reimbursement Methodologies
EMERGENCY
152.250 Appeals (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13] and implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2150, effective January 18, 1994, for a maximum of 150 days; adopted at 18 Ill. Reg. 10141, effective June 17, 1994; emergency amendment at 19 Ill. Reg. 6706, effective May 12, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10236, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16272, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9272, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15712, effective November 27, 1996; emergency amendment at 21 Ill. Reg. 9544, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16153, effective November 26, 1997; emergency amendment at 25 Ill. Reg. 218, effective January 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6966, effective May 28, 2001; emergency amendment at 25 Ill. Reg. 16122, effective December 3, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7309, effective April 29, 2002; emergency amendment at 29 Ill. Reg. 10299, effective July 1, 2005, for a maximum of 150 days.

Section 152.150 Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)EMERGENCY

- a) Notwithstanding any provisions set forth in 89 Ill. Adm. Code 149, the changes described in subsections (b) and (c) of this Section will be effective January 18, 1994.

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- b) For the rate periods, as described in 89 Ill. Adm. Code 148.25(g)(2)(B), the DRG weighting factors shall be adjusted by a factor, the numerator of which is the statewide weighted average DRG base payment rate in effect for the base period, as described in 89 Ill. Adm. Code 148.25(g)(2)(A), and the denominator of which is the statewide weighted average DRG base payment rate for the rate period, as described in 89 Ill. Adm. Code 148.25(g)(2)(B). For this adjustment, DRG base payment rate means the product of the PPS base rate, as described in 89 Ill. Adm. Code 149.100(c)(3), and the indirect medical education factor, as described in 89 Ill. Adm. Code 149.150(c)(3).
- c) All payments calculated under 89 Ill. Adm. Code 149.140 and 149.150(c)(1), (c)(2) and (c)(4), in effect on January 18, 1994, shall remain in effect hereafter.
- d) For hospital inpatient services rendered on or after July 1, 1995, the Department shall reimburse hospitals using the relative weighting factors and the base payment rates calculated pursuant to the methodology described in this Section, that were in effect on June 30, 1995, less the portion of such rates attributed by the Department to the cost of medical education.
- e) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 149 (DRG PPS), the changes described in this subsection (e) shall be effective January 1, 2001. Payments for hospital inpatient and outpatient services shall not exceed charges to the Department. This payment limitation shall not apply to government owned or operated hospitals or children's hospitals as defined at 89 Ill. Adm. Code 149.50(c)(3). This payment limitation shall not apply to or affect disproportionate share payments as described at 89 Ill. Adm. Code 148.120, payments for outlier costs as described at 89 Ill. Adm. Code 149.105 or payments for Medicaid High Volume Adjustments as described at 89 Ill. Adm. Code 148.290(d).
- f) Notwithstanding the provisions of 89 Ill. Adm. Code 149, ~~for admissions on or after December 3, 2001,~~ payment for outlier cases pursuant to 89 Ill. Adm. Code 149.105 shall be determined by using the following factors that were in effect on June 30, 1995:
- 1) The marginal cost factor (see 89 Ill. Adm. Code 149.5(c)(4)),
 - 2) The Metropolitan Statistical Area (MSA) wage index (see 89 Ill. Adm. Code 148.120(b)),
 - 3) The Indirect Medical Education (IME) factor (see 89 Ill. Adm. Code

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148.260(a)(1)(B)(iv)),

- 4) The cost to charge ratio (see 89 Ill. Adm. Code 149.105(c)(3)), and
- 5) ~~Outlier Threshold: The cost outlier threshold (see 89 Ill. Adm. Code 149.5(c)(5)) multiplied by 1.22.~~
 - A) For admissions on December 3, 2001 through June 30, 2005, the cost outlier threshold (see 89 Ill. Adm. Code 149.5(c)(5)) multiplied by 1.22.
 - B) For admissions on or after July 1, 2005, the cost outlier threshold (see 89 Ill. Adm. Code 149.5(c)(5)) multiplied by 1.40.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10299, effective July 1, 2005, for a maximum of 150 days)

Section 152.200 Non-DRG Reimbursement Methodologies**EMERGENCY**

- a) Notwithstanding any provisions set forth in 89 Ill. Adm. Code 148, the changes described in subsection (b) of this Section will be effective January 18, 1994.
- b) All per diem payments calculated under 89 Ill. Adm. Code 148, except for those described in 89 Ill. Adm. Code 148.120, 148.160, 148.170, 148.175 and 148.290(a), (c) and (d), in effect on January 18, 1994, less the portion of such rates attributed by the Department to the cost of medical education, shall remain in effect hereafter.
- c) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 148, Hospital Services, and 89 Ill. Adm. Code 146, Subpart A, Ambulatory Surgical Treatment Centers, the changes described in this subsection (c) shall be effective January 1, 2001. Payments for hospital inpatient and outpatient services and ambulatory surgical treatment services shall not exceed charges to the Department. This payment limitation shall not apply to government owned or operated hospitals or children's hospitals as defined at 89 Ill. Adm. Code 149.50(c)(3). This payment limitation shall not apply to or affect disproportionate share payments as described at 89 Ill. Adm. Code 148.120, payments for outlier costs as described at 89 Ill. Adm. Code 148.130 or payments for Medicaid High Volume Adjustments as described at 89 Ill. Adm. Code 148.290(d).

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- d) Notwithstanding the provisions of subsections (a), (b) and (c) of this Section, ~~for admissions on or after December 3, 2001,~~ payment for outlier adjustments provided for exceptionally costly stays pursuant to 89 Ill. Adm. Code 148.130 shall be determined using the following factors: factor 0.22 in place of the factor 0.25 described at 89 Ill. Adm. Code 148.130(b)(3)(D).
- 1) For admissions on December 3, 2001 through June 30, 2005, a factor of 0.22 in place of the factor 0.25 described at 89 Ill. Adm. Code 148.130(b)(3)(D).
 - 2) For admissions on or after July 1, 2005, a factor of 0.20 in place of the factor 0.22 as described in subsection (d)(1) of this Section.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10299, effective July 1, 2005, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Manufactured Home Community Code
- 2) Code Citation: 77 Ill. Adm. Code 860
- 3)

| <u>Section Numbers</u> : | <u>Emergency Action</u> : |
|--------------------------|---------------------------|
| 860.20 | Amendment |
| 860.200 | Amendment |
| 860.210 | Amendment |
| 860.250 | Amendment |
| 860.260 | Amendment |
| 860.270 | Amendment |
| 860.APPENDIX B | Repealed |
| 860.TABLE B | Amendment |
- 4) Statutory Authority: Implementing and authorized by the Mobile Home Park Act [210 ILCS 115]
- 5) Effective Date of Amendments: July 1, 2005
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A
- 7) Date filed with the Index Department: July 1, 2005
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file and available for public inspection at the Illinois Department of Public Health, 525 W. Jefferson Street, Springfield, Illinois 62761-0001.
- 9) Reason for Emergency: On January 11, 2005, the Joint Committee on Administrative Rules issued an Objection and Filing Prohibition to proposed amendments to this Part that were published on January 30, 2004. The purpose of the Objection and Filing Prohibition was to "afford the Department and the affected parties more time to resolve the remaining issues with this [rulemaking]." JCAR requested that the Department meet with representatives from all organizations that submitted comments on this rulemaking and 77 Ill. Adm. Code 870, 770, and 885. After lengthy negotiations with interested parties and JCAR, agreements were reached, and the Filing Prohibition was withdrawn on April 12, 2005. The one-year expiration date for the rulemaking occurred on May 1, and the Department was not able to file the adopted amendments prior to that date. These emergency amendments are unchanged from the agreements negotiated between the agency and JCAR, as certified by JCAR on April 12, 2005. Section 5-45 of the Illinois

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Administrative Procedure Act (IAPA) defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare. The IAPA authorizes the use of emergency rulemaking if an agency finds that an emergency exists that requires adoption of a rule upon fewer days than is required under regular rulemaking procedures. The Department of Public Health finds that this situation constitutes an emergency because continued operation of the mobile home park program without adoption of these negotiated amendments constitutes a threat to the public interest, safety, and welfare. These amendments include new safety regulations in regard to setback requirements, updated electrical installation requirements, fire hydrants, and water main size. Implementation of these requirements is important to protect the safety of mobile home park residents. These amendments reflect agreements that are required by JCAR, based on JCAR's review of the rulemaking that expired on May 1, 2005. The agreements include implementation of amended provisions of the rules by July 1, 2005. Adoption of emergency amendments will ensure that the Department complies with its agreements with JCAR.

- 10) A complete Description of the Subjects and Issues Involved: These amendments describe requirements for the design, construction, and operation of manufactured home communities. The amendments clarify issues regarding the location of the home support system for homes at new sites, street lighting and fire hydrant compliance in accordance with current fire safety codes.
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking will not create or expand expenditures by units of local government.
- 13) Information and questions regarding these amendments shall be directed to:

Susan Meister
IDPH Rules Coordinator
535 W. Jefferson Street
Springfield IL 62761-0001

217-782-2043

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER q: MOBILE HOMES

PART 860
MANUFACTURED HOME COMMUNITY CODE

SUBPART A: DEFINITIONS AND INCORPORATED MATERIALS

- Section
- 860.10 Definitions
- 860.20 Incorporated and Referenced Materials

EMERGENCY

SUBPART B: PERMITS

- Section
- 860.100 Required Permits
- 860.110 Applications
- 860.120 Plans
- 860.130 Flood Plain Requirements
- 860.140 Occupancy of New Sites
- 860.150 Immobilization
- 860.160 Deletion of Sites

SUBPART C: REQUIREMENTS OF THE MANUFACTURED HOME COMMUNITY

- Section
- 860.200 Layout of the Manufactured Home Community

EMERGENCY

- 860.210 Support Systems
- 860.220 Streets and Parking
- 860.230 Water
- 860.240 Sewage
- 860.250 Electrical

EMERGENCY

- 860.260 Fuel Supply

EMERGENCY

- 860.270 Fire Safety

EMERGENCY

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| 860.280 | Lighting |
| 860.290 | Pools and Beaches |
| 860.300 | Solid and Landscape Waste |
| 860.310 | Manufactured Home Community Appearance |
| 860.320 | Identification of Sites |
| 860.330 | Vector Control |
| 860.340 | Fences |
| 860.350 | Inspection Doors |
| 860.360 | Recreational Vehicles |
| 860.370 | Animal Control |
| 860.380 | Vacant Sites |
| 860.390 | Duplex Units |

SUBPART D: ADDITIONAL RESPONSIBILITIES OF THE LICENSEE

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|---------|-------------------------------------------------------|
| Section | |
| 860.400 | Required Documents |
| 860.410 | Manufactured Home Community Rules |
| 860.420 | Register |
| 860.430 | Inspections by Manufactured Home Community Management |

SUBPART E: ADMINISTRATIVE ACTION BY THE DEPARTMENT

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|---------|----------------------|
| Section | |
| 860.500 | Variance Procedures |
| 860.510 | Enforcement Action |
| 860.520 | Common Operation |
| 860.530 | Existing Communities |

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| 860.ILLUSTRATION A | Manufactured Home Community Layout For Sites Constructed After July 1, 1998 |
| 860.ILLUSTRATION B | Typical Manufactured Home Site |
| 860.ILLUSTRATION C | Water Service Connection |
| 860.ILLUSTRATION D | Sewer Service Connection |
| 860.ILLUSTRATION E | Sample Register Information |
| 860.ILLUSTRATION F | Manufactured Home Community Electrical System |
| 860.APPENDIX A | Regional Offices of the Department |
| 860.APPENDIX B | Explanation of the 1996 National Electrical Code Requirements for Manufactured Home Communities (<u>Repealed</u>) |
| 860.APPENDIX C | Unlicensed Motor Vehicles |

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| 860.APPENDIX D | Home Rule Units |
| 860.TABLE A | Minimum Road Width |
| 860.TABLE B | Water Distribution Pipe Size |
| <u>EMERGENCY</u> | |
| 860.TABLE C | Minimum Size and Slope of Sewer Mains |

AUTHORITY: Implementing and authorized by the Mobile Home Park Act [210 ILCS 115].

SOURCE: Adopted March 2, 1973; amended at 4 Ill. Reg. 46, p. 1286, effective January 1, 1981; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 17520, effective September 11, 1984; old Part repealed and new Part adopted at 22 Ill. Reg. 8863, effective May 8, 1998; emergency amendment at 29 Ill. Reg. 10305, effective July 1, 2005, for a maximum of 150 days.

SUBPART A: DEFINITIONS AND INCORPORATED MATERIALS

Section 860.20 Incorporated and Referenced MaterialsEMERGENCY

The following standards of nationally recognized organizations and federal and State regulations are incorporated or referenced in this Part:

- a) The following materials are incorporated by reference and include no later amendments or editions:
 - 1) Standard Specifications for Water and Sewer Main Construction in Illinois, 1996 Edition published by:

Illinois Society of Professional Engineers
1304 South Lowell Avenue
Springfield, Illinois 62704
Referenced in Section 860.230.
 - 2) Flood Insurance Rate Map and Flood Hazard Boundary Map published by:

Federal Insurance Administration
Region V
300 Wacker Drive, 24th Floor
Chicago, Illinois 60606
Referenced in Section 860.130.

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- 3) National Electrical Code, 1996 Edition (NFPA 70-96) published by:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
Referenced in Section 860.250 ~~and Appendix B.~~
- 4) National Electrical Code, 2002 Edition (NFPA 70-02) published by:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
Referenced in Section 860.250.
- 54) Installation of Oil Burning Equipment, 2001~~1992~~ Edition (NFPA 31-0192) published by:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
Referenced in Section 860.260.
- 65) National Fuel Gas Code, 1999~~1992~~ Edition (NFPA 54-9992) published by:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
Referenced in Sections 860.160 and 860.260.
- 76) Storage and Handling of Liquefied Petroleum Gases, 1998~~1995~~ Edition (NFPA 58-9895) published by:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
Referenced in Section 860.260.
- 87) ASTM International (formerly American Society of Testing and

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Materials), Standard Method ~~for~~ Test for Surface Burning Characteristics of Building Materials, Standard E84-1998, published by:

ASTM International
100 Barr Harbor Drive
P.O. Box C 700
West Conshohocken, Pennsylvania 19248-2959
~~American Society of Testing and Materials~~
~~1916 Race Street~~
~~Philadelphia, PA 19103~~

Referenced in Section 860.270.

- 98) Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR 192), Revised October 1, 2003 Pipeline Safety Regulations, 4a, CFR Part 192

United States Department of Transportation
Office of Pipeline Safety
400 7th Street S.W.
Washington, D.C. 20590
Referenced in Section 860.260.

- b) The following materials are referenced in this Part:
- 1) State of Illinois statutes
 - A) Illinois Architectural Practice Act of 1989 [225 ILCS 305]
Referenced in Section 860.120.
 - B) Illinois Professional Engineering Act [225 ILCS 325]
Referenced in Section 860.120.
 - C) Illinois Vehicle Code [625 ILCS 5/4-203]
Referenced in Section 860.310 and Appendix C.
 - D) Mobile Home Park Landlord and Tenant Act [765 ILCS 745]
Referenced in Section 860.400.
 - E) Abandoned Mobile Home Act [210 ILCS 117]
Referenced in Section 860.310.

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- F) Private Sewage Disposal Licensing Act [225 ILCS 225]
Referenced in Section 860.240.
- G) Smoke Detector Act [425 ILCS 60]
Referenced in Section 860.410.
- H) Plumbing License Law [225 ILCS 320]
Referenced in Sections 860.230 and 860.240.
- I) Swimming Pool and Bathing Beach Act [210 ILCS 125]
Referenced in Sections 860.120 and 860.290.
- J) Illinois Mobile Home Tiedown Act [210 ILCS 120]
Referenced in Section 860.400.
- K) Illinois Municipal Code [65 ILCS 5/11-40-3]
Referenced in Appendix C.
- L) Counties Code [55 ILCS 5/5-1092]
Referenced in Appendix C.
- M) Townships Code [60 ILCS 1/30-130]
Referenced in Appendix C.
- N) [Manufactured Home Quality Assurance Act \[430 ILCS 117\]](#)
[Referenced in Section 860.210](#)

- 2) Department of Public Health regulations
 - A) Illinois Swimming Pool and Bathing Beach Code (77 Ill. Adm. Code 820)
Referenced in Section 860.290.
 - B) Illinois Plumbing Code (77 Ill. Adm. Code 890)
Referenced in Sections 860.230, 860.240 and Appendix B.
 - C) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
Referenced in Section 860.240.

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- D) Drinking Water Systems Code (77 Ill. Adm. Code 900)
Referenced in Section 860.230.
 - E) Illinois Water Well Construction Code (77 Ill. Adm. Code 920)
Referenced in Section 860.230.
 - F) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)
Referenced in Section 860.230.
 - G) Surface Source Water Treatment Code (77 Ill. Adm. Code 930)
Referenced in Section 860.230.
 - H) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
Referenced in Section 860.230.
 - I) [Manufactured Home Installation Code](#)~~Mobile Home Tiedown Code~~ (77 Ill. Adm. Code 870)
Referenced in ~~Sections~~[Section 860.210](#), 860.360.
 - J) Rules ~~offer~~ Practice and Procedure ~~infer~~ Administrative Hearings (77 Ill. Adm. Code 100)
Referenced in Section 860.510.
- 3) Illinois Pollution Control Board regulations
 - A) Public Water Supplies (35 Ill. Adm. Code Subtitle F)
Referenced in Section 860.230.
 - B) Waste Disposal (35 Ill. Adm. Code Subtitle G)
Referenced in Section 860.240.
 - C) Solid Waste and Special Waste Hauling (35 Ill. Adm. Code Subtitle G, Subchapter i)
Referenced in Section 860.300.
 - 4) Illinois Environmental Protection Agency regulations
Illinois Recommended Standards for Sewage Works (35 Ill. Adm. Code 370)

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Referenced in Section 860.240.

5) Materials of Other State Agencies

A) Regulatory Flood Plain Map published by:

Illinois Department of Natural Resources
Division of Water Resources
310 South Michigan, Room 1606
Chicago, Illinois 60604
Referenced in Section 860.130.

B) Statewide Permit Number 6, issued September 15, 1993 by:

Illinois Department of Transportation
Division of Water Resources
2300 South Dirksen Parkway
Springfield, Illinois 62764
Referenced in Section 860.130.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10305, effective July 1, 2005, for a maximum of 150 days)

SUBPART C: REQUIREMENTS OF THE MANUFACTURED HOME COMMUNITY

Section 860.200 Layout of the Manufactured Home Community

EMERGENCY

- a) All areas of the manufactured home community shall be drained to prevent ponding of water. If necessary, a storm drainage system shall be installed.
- b) Section 9.3 of the Act specifies the minimum square footage of each site and the location of the homes on the site. (See Section 860.Illustrations A and B.) There shall be a minimum street frontage of 25 linear feet for each site.
- c) *No mobile home shall be parked closer than 5 feet to the side lot lines of a park, or closer than 10 feet to a public street, alley or building. Each individual site shall abut or face on a private or public street. All streets shall have unobstructed access to a public street. There shall be an open space of at least 10 feet adjacent to the sides of every mobile home and at least 5 feet adjacent to the ends of every*

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~~mobile home. [210 ILCS 115/9.3] Homes located on these sites shall not be closer to a private street than the previous home on that site. Manufactured homes located on sites constructed prior to July 1, 1998 shall be at least 5 feet from the property line of the manufactured home community and 10 feet from any public street, alley, or building. There shall be a minimum separation of 10 feet from the side of a manufactured home to another manufactured home and a minimum of 5 feet from the end of a manufactured home to another manufactured home.~~

- d) Manufactured homes located on sites constructed after July 1, 1998 shall be located at least ~~5 feet from the manufactured home community property line~~, 10 feet from ~~public or private streets, alleys, buildings~~ or other manufactured homes, and shall not extend over a sidewalk.
- e) All portions of sheds, carports, garages, porches and similar structures constructed after July 1, 1998 shall be at least 3 feet from the manufactured home community property line, 5 feet from any other structure on adjacent sites, and 10 feet from all streets. For corner sites, sheds shall be at least 3 feet from all streets. Existing portions of sheds, carports, garages, porches, and similar structures may be replaced at the same location without complying with the requirements of this subsection (e). ~~f) — When questions arise concerning the property lines of the manufactured home community, the licensee shall be responsible for identifying the legal location.~~
- f) If any portion of a home, porch or step is within 5 feet of a private street, a speed limit of 10 miles per hour or less shall be posted for that street.
- g) When questions arise concerning the property lines of the manufactured home community, the licensee shall be responsible for identifying the legal location.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10305, effective July 1, 2005, for a maximum of 150 days)

Section 860.210 Support Systems**EMERGENCY**

- a) Sites on which homes ~~were~~ installed on or before July 1, 2005 ~~prior to July 1, 1998~~ shall have a support system in accordance with the requirements as required by the Mobile Home Park Code in effect at the time of the installation.
- b) Manufactured home sites constructed after July 1, 2005 shall comply with the

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~~Manufactured Housing Quality Assurance Act [430 ILCS 117] and the Manufactured Home Installation Code (77 Ill. Adm. Code 870). Homes installed after July 1, 1998, shall be installed on a level support system capable of supporting the design load of the home. The support system shall consist of a minimum 3 1/2 inches thick concrete pad, runners or pier. The support system shall be placed on undisturbed soil or compacted material. Alternative equivalent systems may be submitted for approval by the Department. Pads shall be the approximate dimension of the home. Runners shall be either parallel or perpendicular to the length of the home. Runners that are parallel with the length of the home shall be a minimum of 20 inches wide, extend the approximate length of the home and be located so that blocking rests entirely on the runners. Runners that are perpendicular to the length of the home shall be a minimum of 12 inches wide, extend the approximate width of the home and be spaced at maximum eight feet intervals center to center along the length of the home. Pier blocks shall bear entirely on the pier support system. The manufactured home community owner is responsible for determining that the support system is adequate for the specific soil conditions. A copy of manufactured home installation guidelines is available from the Department. e)The support system can extend below the frost depth to prevent the home from shifting as a result of the freezing and thawing of the soil. The entire support system must be installed at the same approximate depth to prevent damage to the home from frost heave. d)The ground and impervious surfaces surrounding the perimeter of the home shall be sloped to direct all surface water away from the home for sites constructed after July 1, 1998.~~

- c) The owner or operator of a licensed manufactured home community must keep on file copies of the Installation Compliance Certificate required by the Manufactured Home Installation Code (77 Ill. Adm. Code 870). This information shall be made available by the owner or operator of the manufactured home community to the Department, the manufactured home owner and lessee, and the representative of the manufactured home owner and lessee.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10305, effective July 1, 2005, for a maximum of 150 days)

Section 860.250 Electrical
EMERGENCY

- a) New Installations
- 1) All electrical distribution systems constructed or replaced after July 1,

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1998 and before July 1, 2005 shall be designed and constructed to conform to the requirements of the National Electrical Code, 1996 Edition. Article 550-C of the National Electrical Code contains specific requirements for manufactured home communities. ~~(See Section 860. Appendix B.)~~ After July 1, 2005, design, construction, and replacement of electrical distribution systems shall be in accordance with the 2002 Edition of the National Electrical Code.

- 2) For homes installed after July 1, 1998, the manufactured home community licensee shall be responsible for providing electrical service equipment at least equivalent to the amperage capacity of the home which it serves.

b) Existing Installations

The following minimum requirements shall apply to electrical systems installed prior to July 1, 1998:

- 1) The electrical distribution system to the manufactured home sites shall be single phase, 120/240 volts nominal.
- 2) The type, size, installation and location of all conductors shall comply with their approved use as indicated in the edition of the National Electrical Code in effect at the time of construction.
- 3) The service equipment shall not be attached to the home, located under the home, or located anywhere that is not readily accessible. Obstructions such as bushes shall not be located within three feet of the front of the service equipment.
- 4) All electrical equipment installed outdoors shall be the weatherproof type. Equipment located under the home shall be protected from the weather.
- 5) The service equipment and any other electrical devices shall be at least 12 inches above grade and secured to prevent any movement.
- 6) The manufactured home feeder conductor shall be either a cord which meets the requirements of the manufacturer of the home or a permanently installed feeder as specified by the National Electrical Code in effect at the time of installation.
- 7) All circuits at the service equipment shall be protected by over-current

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protection as required by the National Electrical Code in effect at the time of installation.

- 8) Overhead conductors shall provide an 18 feet vertical clearance over all streets, a 12 feet clearance over driveways, and a 10 feet clearance above grade in all other areas. Electrical conductors emerging from the ground shall be protected by enclosures or raceways for direct buried cable or to the approved buried depth for protected conductors and up to a point 8 feet above grade. Acceptable protection shall be rigid metal, intermediate metal or Schedule 80 non-metallic conduit or channel. Manufactured home power supply cords need not be enclosed in conduit or raceways.
- c) **Maintenance of All Systems**
All electrical systems shall be maintained in a safe condition. All damaged or defective equipment shall be repaired or replaced, all loose equipment shall be secured, all faceplates and panel fronts shall be in place and all live parts shall be covered to prevent accidental contact. Dead tree branches which overhang distribution wiring shall be removed. All components of the manufactured home community electrical system shall be inspected by the manufactured home community management and it shall be the responsibility of the licensee to have any defects corrected.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10305, effective July 1, 2005, for a maximum of 150 days)

Section 860.260 Fuel Supply**EMERGENCY**

The distribution, storage, and use of natural gas, liquefied petroleum gas, fuel oil, or other fuels shall be in accordance with the following:

- a) The National Fire Protection Association's Installation of Oil Burning Equipment, 2001+1992 Edition.
- b) The National Fire Protection Association's National Fuel Gas Code, 1999+1992 Edition.
- c) The National Fire Protection Association's Storage and Handling of Liquefied Petroleum Gases, 1998+1995 Edition.

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- d) The United States Department of Transportation's Pipeline Safety Regulations.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10305, effective July 1, 2005, for a maximum of 150 days)

Section 860.270 Fire Safety**EMERGENCY**

- a) Bales of straw or other flammable materials that do not meet the requirements of subsection (b) of this Section shall not be used for skirting or insulation of the manufactured home.
- b) Garages, carports, porches, awnings, sheds, skirting and other similar appurtenances shall be constructed of material designed for exterior use that meets the flame spread rating of 200 or less in accordance with the American Society of Testing and Materials, Standard Method ~~for~~ Test for Surface Burning Characteristics of Building Materials (Standard E84).

c) Fire Hydrants

- 1) If a manufactured home community has fire hydrants, the fire hydrant valves shall be tested annually and the flow rates documented annually by the local fire department or fire protection district, water department or other entity capable of analyzing the available flow from the hydrants. The test results shall be available to the Department upon request.
- 2) The licensee shall provide notification in writing to the local fire department or fire protection district of the hydrants that have been deemed unsatisfactory, and the licensee shall include an agreement to remove the hydrants; reverse the top of the hydrant or provide some other identification acceptable to the fire department or fire protection district to indicate that the hydrant is not acceptable; or install a system that meets the requirements of subsection (d).
- 3) The residents of the manufactured home community shall be advised in writing by the licensee within 30 days when a manufactured home community licensee becomes aware that one or more hydrants in the community is inadequate. The location of these fire hydrants shall be specified in writing, along with a plan to correct the situation and an

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anticipated date for completion. A copy of such notification shall be provided to the Department's Springfield office.

- de) Manufactured home communities constructed after ~~July 1, 2005~~July 1, 1998 must be located in an area protected by a fire department ~~or a~~ fire protection district and provided with fire hydrants within 500 feet of any structure in the manufactured home community. As an alternative to fire hydrants, a holding pond or other source of water of 100,000 gallons or more accessible to the fire department ~~or~~ fire protection district may be used, if the fire department ~~or fire protection district~~ is capable of pumping from the body of water. The minimum size water main for providing fire protection shall be six inches in diameter. The system shall be designed to maintain a minimum pressure of 20 psi at all points in the distribution system under normal conditions of flow. (See Table B.)
- ed) Flammable liquids and gasoline-powered equipment other than motorized vehicles shall not be stored within five feet of a manufactured home, except when stored in a shed or garage.
- fe) All intended means of egress shall not be obstructed.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10305, effective July 1, 2005, for a maximum of 150 days)

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Section 860.APPENDIX B Explanation of the 1996 National Electrical Code Requirements for Manufactured Home Communities (Repealed)
EMERGENCY

~~All electrical distribution systems constructed or repaired after July 1, 1998 must meet the requirements of the 1996 National Electrical Code. Section 860.Illustration F contains a diagram of the electrical system in the manufactured home community. The following is an explanation of some of the specific requirements of the National Electrical Code.~~

TRANSFORMERS

- ~~1. Article 550-22(a) of the National Electrical Code requires, as a minimum, that the transformer be sized on the larger of (1) 16,000 volt-amperes (at 120/240 volts) for each manufactured home site or (2) the load calculated in accordance with Section 550-13 for the largest typical home that each site will accept. Table 550-22 contains the minimum demand factors. The following are examples:~~

| Number of Sites | × | Demand Factor | = | Minimum Capacity of Transformer (volt-amperes) |
|--------------------|---|---------------|---|------------------------------------------------------|
| 1 | | 100% | | 16,000 |
| 2 | | 55% | | 17,600 |
| 3 | | 44% | | 21,120 |
| 4 | | 39% | | 24,960 |
| 5 | | 33% | | 26,400 |
| 6 | | 29% | | 27,840 |
| 7 | | 28% | | 31,360 |
| 8 | | 28% | | 35,840 |
| 9 | | 28% | | 40,320 |
| 10 | | 27% | | 43,200 |
| 11 | | 27% | | 47,520 |
| 12 | | 27% | | 51,840 |
| 13 | | 26% | | 54,080 |
| 14 | | 26% | | 58,240 |
| 15 | | 26% | | 62,400 |
| 16 | | 25% | | 64,000 |
| 17 | | 25% | | 68,000 |
| 18 | | 25% | | 72,000 |

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| | | |
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| 19 | 25% | 76,000 |
| 20 | 25% | 80,000 |
| 21 | 25% | 84,000 |
| 22 | 24% | 84,400 |
| 23 | 24% | 88,320 |
| 24 | 24% | 92,160 |
| 25 | 24% | 96,000 |
| 26 | 24% | 99,840 |
| 27 | 24% | 103,680 |
| 28 | 24% | 107,520 |
| 29 | 24% | 111,360 |
| 30 | 24% | 115,200 |
| 31 | 24% | 119,040 |
| 32 | 24% | 122,880 |
| 33 | 24% | 126,720 |
| 34 | 24% | 130,560 |
| 35 | 24% | 134,400 |
| 36 | 24% | 138,240 |
| 37 | 24% | 142,080 |
| 38 | 24% | 145,920 |
| 39 | 24% | 149,760 |
| 40 | 24% | 153,600 |
| 41 | 23% | 150,880 |
| 42 | 23% | 154,560 |
| 43 | 23% | 158,240 |
| 44 | 23% | 161,920 |
| 45 | 23% | 165,600 |
| 46 | 23% | 169,280 |
| 47 | 23% | 172,960 |
| 48 | 23% | 176,640 |
| 49 | 23% | 180,320 |
| 50 | 23% | 184,000 |
| 51 | 23% | 187,680 |
| 52 | 23% | 191,360 |
| 53 | 23% | 195,040 |
| 54 | 23% | 198,720 |
| 55 | 23% | 202,400 |
| 56 | 23% | 206,080 |
| 57 | 23% | 209,760 |
| 58 | 23% | 213,440 |

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| 59 | 23% | 217,120 |
| 60 | 23% | 220,800 |

2. ~~The transformer shall be grounded as required by Article 250. This conductor shall be sized as required by Article 250-95.~~

~~SERVICE ENTRANCE CONDUCTORS~~

1. ~~The service entrance conductor may either be overhead (see Article 230-B) or underground (see Article 230-C) (See Section 860. Illustration F).~~
2. ~~The service entrance conductor shall contain a minimum of 2 hot conductors and 1 neutral, all individually insulated. Section 310-15 indicates the requirements and Table 310-16 specifies the minimum size of the underground conductors and Tables 310-17, 18 and 19 contain the minimum size of the overhead conductors.~~
3. ~~Service entrance conductors shall not be spliced (Article 230-46).~~
4. ~~Overhead conductors must meet the clearance requirement of Article 230-24 (18 feet clearance over streets, 15 feet over driveways, and 10 feet elsewhere). Be advised that height requirements are dependent on the voltage the conductors are carrying.~~
5. ~~Direct buried cables must be buried a minimum of 24 inches. Rigid metal or intermediate metal conduit must be buried at least 6 inches. See Table 300-5 for other requirements.~~
6. ~~Conductors emerging from the ground must be protected by enclosures or raceways extending 18 inches below grade for direct buried cable or to the approved buried depth for protected cable and up to a point 8 feet above grade. Acceptable protection shall be rigid metal conduit, intermediate metal conduit or Schedule 80 rigid non-metallic conduit.~~

~~SERVICE EQUIPMENT~~

1. ~~The service entrance equipment must be readily accessible within 30 feet of the home it serves or a properly grounded disconnecting means within 30 feet of the home must be provided (Article 550-23(a)).~~
2. ~~The service entrance equipment must be rated at least 100 amperes. The~~

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~~equipment may include up to a 50 ampere receptacle if the proper over-current protection is provided (Article 550-23(b)).~~

- ~~3. The equipment must also include provisions for a branch circuit to serve any auxiliary structures or equipment such as yard lights and lawn maintenance equipment (Article 550-23(c)).~~
- ~~4. All 15 and 20 ampere receptacles installed outdoors must be protected by approved ground-fault circuit protection for personnel (Article 550-23(d)).~~
- ~~5. The required disconnection means shall be located between 2 feet and 6 1/2 feet from the ground (Article 550-23(e)).~~
- ~~6. The service equipment shall be grounded as required by Article 250-32. See Section 250-H for the requirements of the grounding electrode system.~~

FEEDERS

- ~~1. The manufactured home feeder conductor may either be a factory installed cord or a permanently installed feeder. Either shall contain 4 continuous insulated color-coded conductors, one which shall be the grounding conductor (Article 550-24).~~
- ~~2. The feeders may be overhead or underground. Similar requirements for clearances and size of the conductors apply as indicated for the service conductor.~~
- ~~3. Underground feeders may be directly buried if they bear a UF or USE marking. Otherwise they must be protected as required by Table 300-5.~~
- ~~4. The underground feeders must be protected as required by Article 300-5(d) where it emerges from the ground both at the service equipment and under the home. Because the home may be subject to vertical movement due to the freezing of the soil, provisions shall be made to allow for this movement without causing damage to the conductors.~~

DISTRIBUTION PANEL

~~The wiring of the distribution panel, which is located in the home, is not within the Illinois Department of Public Health's jurisdiction. However, it is important that the following provisions of Article 550-11 be met.~~

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1. ~~The white (neutral) conductor is required to be run from the "insulated busbar" in the manufactured home panel to the service entrance equipment, where it is connected to the terminal at the point of connection to the grounding electrode conductor.~~
2. ~~The green (grounding) conductor is required to be run from the "panel grounding bus" in the manufactured home to the service entrance equipment, where it is connected to the neutral conductor at the point of connection to the grounding electrode conductor.~~
3. ~~The requirements provide that the grounded (white) conductor and the grounding (green) conductor be kept separate within the manufactured home structure and only connected at the service entrance equipment in order to secure the maximum protection against electric shock hazards if the supplied neutral conductor should become open.~~
4. ~~The grounded circuit conductor (neutral) shall be insulated from the grounding conductors and from equipment enclosures and other grounded parts. The grounded (neutral) circuit terminals in the distribution panelboard shall be insulated from the equipment enclosure.~~
5. ~~The green colored grounding wire in the feeder shall be connected to the grounding bus in the distribution panelboard.~~
6. ~~All exposed non-current-carrying metal parts that may become energized shall be effectively bonded to the grounding terminal of the distribution panelboard. A bonding conductor shall be connected between each distribution panelboard and an accessible terminal on the chassis.~~

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10305, effective July 1, 2005, for a maximum of 150 days)

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Section 860.TABLE B Water Distribution Pipe Size**EMERGENCY**

| Inside Diameter of Main (In inches) | Number of Manufactured Home Sites Connected | Maximum Length of Main (In feet) |
|----------------------------------------|---------------------------------------------------|-------------------------------------|
| 2 | 20 | 600 |
| 3 | 60 | 1,800 |
| 4 | 120 | 3,600 |
| 6 | 400 | 12,000 |

NOTE: If local requirements exceed the above sizes, the local standards must be met. A minimum 6-inch diameter pipe is required if fire hydrants are installed in the water distribution system. (See Section 860.270(d).)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10305, effective July 1, 2005, for a maximum of 150 days)

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- 1) Heading of the Part: Manufactured Home Installation Code
- 2) Code Citation: 77 Ill. Adm. Code 870
- 3)

| <u>Section Numbers:</u> | <u>Emergency Action:</u> |
|-------------------------|--------------------------|
| 870.10 | New Section |
| 870.20 | New Section |
| 870.30 | New Section |
| 870.40 | New Section |
| 870.50 | New Section |
| 870.55 | New Section |
| 870.60 | New Section |
| 870.65 | New Section |
| 870.70 | New Section |
| 870.80 | New Section |
| 870.90 | New Section |
| 870.100 | New Section |
| 870.110 | New Section |
| 870.120 | New Section |
| 870.130 | New Section |
| 870.140 | New Section |
| 870.150 | New Section |
| 870.160 | New Section |
| 870.170 | New Section |
| 870.190 | New Section |
| 870.200 | New Section |
| 870.210 | New Section |
| 870.220 | New Section |
| 870.230 | New Section |
| 870.240 | New Section |
| 870.250 | New Section |
| TABLE A | New Section |
| TABLE B | New Section |
| TABLE C | New Section |
| TABLE D | New Section |
| TABLE E | New Section |
| TABLE F | New Section |
| TABLE G | New Section |
| TABLE H | New Section |

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- 4) Statutory Authority: Implementing and authorized by the Illinois Manufactured Home Installers Act [430 ILCS 120], the Manufactured Home Quality Assurance Act [430 ILCS 117], and the Illinois Mobile Home Tiedown Act [210 ILCS 120].
- 5) Effective Date of Amendments: July 1, 2005
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A
- 7) Date filed with the Index Department: July 1, 2005
- 8) A copy of the rules including any material incorporated is on file and available for public inspection at the Illinois Department of Public Health, 525 W. Jefferson Street, Springfield, Illinois 62761-0001.
- 9) Reason for Emergency: On January 11, 2005, the Joint Committee on Administrative Rules issued an Objection and Filing Prohibition to proposed amendments to this Part that were published on January 30, 2004. The purpose of the Objection and Filing Prohibition was to “afford the Department and the affected parties more time to resolve the remaining issues with this [rulemaking].” JCAR requested that the Department meet with representatives from all organizations that submitted comments on this rulemaking and 77 Ill. Adm. Code 870, 770, and 885. After lengthy negotiations with interested parties and JCAR, agreements were reached, and the Filing Prohibition was withdrawn on April 12, 2005. The one-year expiration date for the rulemaking occurred on May 1, and the Department was not able to file the adopted amendments prior to that date. These emergency amendments are unchanged from the agreements negotiated between the agency and JCAR, as certified by JCAR on April 12, 2005. Section 5-45 of the Illinois Administrative Procedure Act (IAPA) defines “emergency” as “the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare. The IAPA authorizes the use of emergency rulemaking if an agency finds that an emergency exists that requires adoption of a rule upon fewer days than is required under regular rulemaking procedures. The Department of Public Health finds that this situation constitutes an emergency because continued operation of the mobile home park program without adoption of these negotiated amendments constitutes a threat to the public interest, safety, and welfare. These rules include new safety regulations in regard to setback requirements, updated electrical installation requirements, fire hydrants, and water main size. Implementation of these requirements is important to protect the safety of mobile home park residents. These rules reflect agreements that are required by JCAR, based on JCAR’s review of the rulemaking that expired on May 1, 2005. The

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agreements include implementation of the rules by July 1, 2005. Adoption of emergency amendments will ensure that the Department complies with its agreements with JCAR.

- 10) A complete Description of the Subjects and Issues Involved: These rules will implement the Illinois Manufactured Home Quality Assurance Act [430 ILCS 117], which requires the Department to license manufactured home installers and manufacturers of manufactured homes, and to establish installation standards for homes without manufacturer's installation manuals. This rulemaking is a companion rulemaking to the repeal of the Illinois Manufactured Home Tiedown Code (77 Ill. Adm. Code 870) and the Manufactured Home Installer Accreditation Course Code (77 Ill. Adm. Code 885). Requirements being repealed from those two Parts are incorporated into this Part, consolidating rules on the installation of manufactured homes.
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking will not create or expand expenditures by units of local government.
- 11) Information and questions regarding these rules shall be directed to:

Susan Meister, IDPH Rules Coordinator
535 W. Jefferson Street,
Springfield, IL 62761-0001

217-782-2043
e-mail: rules@idph.state.il.us

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER q: MOBILE HOMES

PART 870
MANUFACTURED HOME INSTALLATION CODE

SUBPART A: DEFINITIONS AND INCORPORATED MATERIALS

Section

- 870.10 Definitions
EMERGENCY
- 870.20 Incorporated and Referenced Materials
EMERGENCY

SUBPART B: MANUFACTURED HOME INSTALLER ACCREDITATION COURSES

Section

- 870.30 Accreditation of Manufactured Home Installer Course
EMERGENCY
- 870.40 Responsibilities of Entities Offering Accredited Manufactured Home Installer Courses
EMERGENCY
- 870.50 Requirements for Accredited Manufactured Home Installer Course Curriculum
EMERGENCY
- 870.55 Reciprocity
EMERGENCY
- 870.60 Revocation of Accreditation
EMERGENCY

SUBPART C: MANUFACTURED HOME INSTALLER REQUIREMENTS

Section

- 870.65 Requirements for Manufactured Home Installers License
EMERGENCY
- 870.70 Continuing Education
EMERGENCY
- 870.80 Installation Seals and Compliance Certificates
EMERGENCY

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SUBPART D: REQUIREMENTS FOR THE INSTALLATION
OF MANUFACTURED HOMES

Section

870.90 Requirements for the Installation of Manufactured Homes

EMERGENCY

870.100 Site Location

EMERGENCY

870.110 Support Systems

EMERGENCY

870.120 Structural Connections, Sealing and Patching

EMERGENCY

870.130 Electrical Hookup of Manufactured Homes

EMERGENCY

870.140 Plumbing

EMERGENCY

870.150 Heating and Air Conditioning

EMERGENCY

870.160 Natural and Liquefied Petroleum Gas Installation

EMERGENCY

870.170 Perimeter Enclosures

EMERGENCY

SUBPART E: MANUFACTURED HOME ANCHORING

Section

870.190 Tiedown Equipment Approval

EMERGENCY

870.200 Equipment Specifications

EMERGENCY

870.210 Compliance

EMERGENCY

870.220 Tiedown Installation Requirements

EMERGENCY

SUBPART F: MANUFACTURERS OF MANUFACTURED HOMES

Section

870.230 Manufacturer's Responsibilities

EMERGENCY

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SUBPART G: ADMINISTRATIVE HEARINGS

| | |
|-------------|-----------------------------------------------------------------------|
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| 870.240 | Penalties |
| EMERGENCY | |
| 870.250 | Injunctive Relief |
| EMERGENCY | |
| 870.TABLE A | Soil Pressure |
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| 870.TABLE B | Footing Areas Required for Soil's Load-Bearing Capacity – Design Roof |
| EMERGENCY | Load 20 Pounds Per Square Foot |
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| EMERGENCY | Load 30 Pounds Per Square Foot |
| 870.TABLE D | Footing Areas Required for Soil's Load-Bearing Capacity – Design Roof |
| EMERGENCY | Load 40 Pounds Per Square Foot |
| 870.TABLE E | Pier Load and Minimum Pier Capacity for 12 Foot Wide Section (Pounds) |
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| EMERGENCY | |
| 870.TABLE H | Multi-Section Fastening Schedule |
| EMERGENCY | |

AUTHORITY: Implementing and authorized by the Illinois Manufactured Home Installers Act [430 ILCS 120], the Manufactured Home Quality Assurance Act [430 ILCS 117], and the Illinois Mobile Home Tiedown Act [210 ILCS 120].

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 10327, effective July 1, 2005, for a maximum of 150 days.

SUBPART A: DEFINITIONS AND INCORPORATED MATERIALS

Section 870.10 Definitions**EMERGENCY**

For purposes of this Part, the following terms have the meanings ascribed in this Section.

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"Accessory structure" means a structure such as a shed, garage, carport, deck or porch on a manufactured home site.

"Anchor" means any device used for securing the manufactured home to the foundation system or ground.

"Anchoring equipment" means bolts, straps, cables, turnbuckles, and chains, including tensioning devices, that are used with ties to secure a manufactured home to ground anchors or the foundation system.

"Anchoring system" means any method used for securing the manufactured home to a foundation system or the ground.

"Department" means the Illinois Department of Public Health. [430 ILCS 117/10]

"Footing" means that portion of the support system that transmits loads directly to the soil.

"Foundation system" is a support system that transfers design loads into the underlying ground. Examples of acceptable foundation systems include, but are not limited to, a floating support system consisting of concrete runners under each frame I-beam, or a concrete pad that extends beneath the entire home and is at least 3½" thick, or individual footing designed to support the home.

"Frost depth" means the depth of frost penetration into the soil.

"Frost heave" is an uplift of ground or pavement caused by freezing of moist soil.

"Ground anchor" means any device at the manufactured home installation site designed to transfer manufactured home anchoring loads to the ground.

"Independent testing laboratory" is an organization that:

Primarily is interested in testing and evaluating equipment; and

Is qualified and equipped to conduct and evaluate experimental testing in accordance with approved standards; and

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Makes available a published report in which specific information is included stating that the equipment and installations have been tested and found safe for use in a specific manner; and

Is not under the jurisdiction or control of any manufacturer or supplier of any industry.

"Installation" means assembly, at the site of occupancy, of all portions of the manufactured home, connection of the manufactured home to utilities, and installation of support and anchoring systems.

"Installation certificate of compliance" means the certificate provided by the Department that is completed by the licensed manufactured home installer, which certifies that the manufactured home installation complies with this Part.

"Installation instructions" means those instructions provided by the manufacturer detailing the manufacturer's requirements for supports, anchoring system attachments and utility connections.

"Installation seal" means a sticker issued by the Department to a licensed manufactured home installer to be displayed on the manufactured home to indicate compliance with the Department's rules pertaining to manufactured home installation.

"Installers Act" means the Illinois Manufactured Home Installers Act [430 ILCS 120].

"Length of manufactured home" is the distance from the exterior of the front wall (nearest to the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, drawbars, couplings, hitches, or other attachments.

"Licensed manufactured home installer" means a person who has successfully completed a manufactured home installation course approved by the Illinois Department of Public Health, paid the license fee and been issued a current license. [430 ILCS 117/10]

"Manufactured home" is synonymous with "mobile home" and means a structure that is a factory-assembled, completely integrated structure designed for

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permanent habitation, with a permanent chassis and so constructed as to permit its transport, on wheels temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is placed on a support system for use as a permanent habitation, and designed and situated so as to permit its occupancy as a dwelling place for one or more persons; provided, that any such structure resting wholly on a permanent foundation, as defined in this Part, shall not be construed as a mobile home or manufactured home. The term "manufactured home" includes manufactured homes constructed after June 30, 1976 in accordance with the federal National Manufactured Housing Construction and Safety Standards Act of 1974 and does not include an immobilized mobile home as defined in Section 2.10 of the Mobile Home Park Act. [430 ILCS 117/10]

"Manufacturer" means a manufacturer of a manufactured home whether the manufacturer is located within or outside the State of Illinois. [430 ILCS 117/10]

"Minimum frost depth" means 35 inches, except in those areas where local ordinance establishes a different frost depth.

"On-site" means the physical presence of the licensed manufactured home installer at the installation site of a manufactured home.

"Permanent foundation" is a continuous perimeter foundation of material, such as mortared concrete block, mortared brick, or concrete, that extends into the ground below the established frost depth and to which the home is secured with foundation bolts at least one-half inch in diameter, spaced at intervals of no more than 6 feet and within one foot of the corners, and embedded at least 7 inches into concrete foundations or 15 inches into block foundations. [430 ILCS 117/10]

"Piers" means that portion of the support system between the footing and the manufactured home, exclusive of shims. Types of piers include concrete blocks, manufactured steel stands, and manufactured concrete stands.

"Site" is a parcel of land for the accommodation of a manufactured home.

"Stabilizing device" means a device or provision made to minimize the deflection or slicing through the soil by a ground anchor rod at ground level.

"Support system" means a combination of footings, piers and shims designed to support the home when properly installed.

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"Tie" means a strap, cable, or securing device used to connect the manufactured home to the anchors.

"Tiedown Act" means the Illinois Mobile Home Tiedown Act [210 ILCS 120].

"Tiedown manufacturer" is any person or business engaged in the manufacturing of tiedown equipment that is offered for sale or use in this State.

"Training hour" means at least 50 minutes of actual teaching, including time devoted to lecture, learning activities, small group activities, demonstrations, evaluations and/or practical, hands-on instruction.

Section 870.20 Incorporated and Referenced Materials
EMERGENCY

- a) The following standards and regulations are incorporated in this Part:
 - 1) Regulations of federal agencies:
 - A) United States Department of Transportation, Office of Pipeline Safety

400 7th Street, S.W.
Washington, D.C. 20590

Transportation of Natural and Other Gas by Pipeline:
Minimum Federal Safety Standards (49 CFR 192; October 1, 2004)
 - B) United States Department of Housing and Urban Development

451 N. 7th Street
Washington, D.C. 20410

Manufactured Home Construction and Safety Standards (24 CFR 3280; April 1, 2004)
 - 2) Standards of a nationally or internationally recognized organization:

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A) National Fire Protection Association

1 Batterymarch Park
P.O. Box 9101
Quincy, Massachusetts 02269-9101

- i) National Electrical Code, 2002 Edition (NFPA 70)
- ii) Standards for the Installation of Oil Burning Equipment, 2001 Edition (NFPA 31)
- iii) National Fuel Gas Code, 1999 Edition (NFPA 54-99)
- iv) Standard for the Storage and Handling of Liquefied Petroleum Gases, 1998 Edition (NFPA 58-98)

B) American Wood-Preservers' Association

P.O. Box 5690
Granbury, Texas 76049

AWPA C22-03 Standard: Lumber and Plywood for
Permanent Wood Foundations – Preservative Treatment by
Pressure Processes (2003)

C) American Society for Testing and Materials

100 Barr Harbor Drive
West Conshohocken, Pennsylvania 19428

- i) ASTM A 254-97 Standard Specification for Copper-Braided Steel Tubing (2002)
- ii) ASTM C 90-03 Standard Specification for Load-Bearing Concrete Masonry Units (2003)
- iii) ASTM D 2513-04A Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing and Fittings (2003)

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- iv) ASTM D 3953-91 Standard Specification for Strapping, Flat Steel and Seals (2003)
- b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.
- c) The following standards, regulations and laws are referenced in this Part:
 - 1) Rules of the Illinois Department of Public Health:
 - A) Manufactured Home Community Code (77 Ill. Adm. Code 860)
 - B) Illinois Plumbing Code (77 Ill. Adm. Code 890)
 - C) Plumbers Licensing Code (68 Ill. Adm. Code 750)
 - 2) State of Illinois statutes:
 - A) Illinois Mobile Home Park Act [210 ILCS 115]
 - B) Illinois Mobile Home Tiedown Act [210 ILCS 120]
 - C) Illinois Plumbing License Law [225 ILCS 320]
 - D) Manufactured Home Quality Assurance Act [430 ILCS 117]
 - E) Illinois Manufactured Home Installers Act [430 ILCS 120]

SUBPART B: MANUFACTURED HOME INSTALLER ACCREDITATION COURSES

**Section 870.30 Accreditation of Manufactured Home Installer Course
EMERGENCY**

- a) An entity that offers or plans to offer a manufactured home installer course shall obtain Department accreditation for the course by submitting to the Department in writing the following information at least 60 days before the beginning of the course:

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- 1) The name, address and telephone number, and the name of a contact person, for the entity providing the course.
- 2) The course location and written documentation that the course provides facilities of sufficient size to accommodate the maximum enrollment of the course for classroom and hands-on field training.
- 3) Beginning and ending dates for the course.
- 4) A course schedule and syllabus.
- 5) Student and instructor manuals for the course.
- 6) Documentation of a principal instructor who shall be responsible for the organization of the course and oversight of the teaching of all course material. Guest instructors may be utilized as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course. The principal instructor shall have the following qualifications:
 - A) at least two years of post high school education in building construction technology; or
 - B) two years of experience in managing a training program specializing in the installation of manufactured homes.
- 7) A final examination for the course that includes criteria for pass/fail. The course must require at least 70% correct on the final examination as a passing score.
- 8) An example of the certificate of course completion that includes the following information:
 - A) the name, address, and telephone number of the entity providing the course;
 - B) the name, dates of attendance at course, and indication of pass/fail for the student to whom the certificate is issued.

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- b) The Department shall provide written notice via certified mail to the course sponsor whether the request for accreditation has been approved.
- c) For requests that are not approved, the Department's notification will include the reason for disapproval and notice that the course sponsor shall have 10 days to submit a written request for an administrative hearing to contest the Department's decision. In lieu of a request for hearing, the course sponsor may submit a revised request for accreditation in which items noted to be incomplete in the initial request are completed.
- d) The Department shall maintain and make available to the public a list of approved course sponsors.

Section 870.40 Responsibilities of Entities Offering Accredited Manufactured Home Installer Courses
EMERGENCY

- a) The entity offering an accredited training course shall be responsible for maintaining training course records and making such records available to the Department as necessary.
 - 1) Course records shall be retained at the address specified on the approved training program accreditation application for a minimum of 3 years.
 - 2) The entity shall notify the Department in writing within 30 days after changing the address specified on the training course accreditation application or transferring records to a new address.
 - 3) The Department shall have the authority to enter, inspect and audit training facilities and to examine records to determine compliance with the Act and this Part.
- b) Training course records that shall be maintained include the following:
 - 1) All documents that demonstrate the qualifications of the principal instructor, as specified in Section 870.30(a)(6).
 - 2) Current curriculum/course materials and documents reflecting any changes made to these materials.

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- 3) A copy of the course final examination.
 - 4) Results of the course final examination and a record of each certified installer's course completion.
 - 5) Any other materials specified in Section 870.30 that have been submitted to the Department as part of the program approval.
- c) Entities offering accredited courses shall submit to the Department a list of installers completing a course within 30 days after course completion.

**Section 870.50 Requirements for Accredited Manufactured Home Installer Course Curriculum
EMERGENCY**

Each accredited manufactured home installer course shall provide instruction on how to install a manufactured home to the specifications of the manufacturer, review Subpart D of this Part for homes without manufacturer specifications, and test the written and practical installation skills of the individual installer (Section 15 of the Installers Act). Each course shall consist of at least 10 training hours that include the following topics:

- a) The installer's responsibility to obtain a copy of the home manufacturer's setup manual to ensure proper setup of the home in accordance with the home's warranty.
- b) The inspection of the proposed site of the home prior to setup to ensure proper location.
- c) Ensuring that the proposed site has drainage away from the home, vegetation cleared from under the home, and vapor barriers provided.
- d) Support of the home by a foundation system in accordance with the design loads of the home, the existing soil load bearing capacity of the home location, the Illinois Mobile Home Park Act [210 ILCS 115], the Manufactured Home Community Code (77 Ill. Adm. Code 860), and local authority requirements.
- e) Safety considerations for the setup of a home.
- f) Proper leveling of the home and placement of piers or foundation walls in accordance with the home manufacturer's specifications.

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- g) Proper anchoring in accordance with the Tiedown Act and Subpart E of this Part.
- h) The installation of the plumbing for the home in accordance with the Illinois Plumbing License Law and the Illinois Plumbing Code.
- i) The installation of the electrical system for the home in compliance with the National Electrical Code.
- j) The installation of the gas or oil utilities for the home in compliance with the requirements of the Installation of Oil Burning Equipment, National Fuel Gas Code Standard for the Storage and Handling of Liquefied Petroleum Gas Code, and the Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards.

**Section 870.55 Reciprocity
EMERGENCY**

The Department may grant approval of a training program of another state that is determined to be equivalent to the requirements of Subpart B of this Part. Individuals must obtain an Illinois license. Installers who have completed a training course that has reciprocity with Illinois must also obtain an Illinois license, but need not complete an examination.

**Section 870.60 Revocation of Accreditation
EMERGENCY**

The Department shall provide written notice via certified mail to the course sponsor of its decision to revoke, for a period not exceeding 6 months, the course sponsor's accreditation. The course sponsor shall have 10 days to submit a written request for an administrative hearing to contest the Department's decision. The Department's decision to revoke a course sponsor's accreditation shall be based upon a course sponsor's violation of the Manufactured Home Quality Assurance Act [430 ILCS 117] or this Part. Notice and opportunity for an administrative hearing shall conform to the provisions of Section 870.240 of this Part.

SUBPART C: MANUFACTURED HOME INSTALLER REQUIREMENTS

**Section 870.65 Requirements for Manufactured Home Installers License
EMERGENCY**

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- a) To qualify for a license as a manufactured home installer, an applicant shall meet the following requirements:
 - 1) Be at least 18 years of age;
 - 2) Complete a Department-approved manufactured home installer course and pass the examination administered at the conclusion of the course, or complete a course offered by another state that has been granted reciprocal approval in accordance with Section 870.55;
 - 3) Submit the completed application form provided by the Department;
 - 4) Submit a 1 inch by 1 inch head and shoulder current photo of the license applicant; and
 - 5) Submit the required license application fee of \$150.
- b) A licensed manufactured home installer must provide proof of licensure at the installation site when requested by a Department representative.
- c) A licensed manufactured home installer is not exempt from the requirements of the Illinois Plumbing License Law.

**Section 870.70 Continuing Education
EMERGENCY**

Licensed manufactured home installers must accumulate 4 hours of training approved by the Department every 2 years to be eligible for license renewal. Continuing education training must comply with Sections 870.30 and 870.40 with the exception that an exam is not required.

**Section 870.80 Installation Seals and Compliance Certificates
EMERGENCY**

- a) The licensed installer who installs the support system for each home must purchase from the Department installation seals and installation compliance certificates for all homes to be installed in Illinois after December 31, 2001. A \$25 check or money order payable to the Illinois Department of Public Health shall be submitted to the Illinois Department of Public Health, Division of Environmental Health, 525 West Jefferson, Springfield, Illinois 62761. Multiple

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seals and certificates of compliance may be purchased. The seals and compliance certificates may be purchased only by a licensed installer.

- b) Location of Seal. The installation seal must be placed directly above the HUD label upon completion of the installation of the home by the installer responsible for the support system for the home. In the event there is no HUD label on the home, the seal shall be placed where the HUD label would normally be. When a home with an installation seal is relocated, the original installation seal shall be removed or covered with the new installation seal.
- c) Installation Compliance Certificate
 - 1) The licensed manufactured home installer shall complete the installation compliance certificate within 30 days after the date of the installation. The installer shall mail copies of the completed certificate, via certified mail, to: the Department, the dealer, the homeowner, and the owner/operator of the licensed manufactured home community, if the home is installed in a community.
 - 2) The installation compliance certificate shall contain the following information:
 - A) Name and address of the licensed installer.
 - B) Installer's license number.
 - C) Name of manufacturer.
 - D) Manufacturer's serial number.
 - E) Home owner's name and address, if available.
 - F) Installation date.
 - G) Number of the installation seal that was affixed to the home.
- d) Lost or Damaged Installation Seals or Compliance Certificates. If a seal or compliance certificate becomes lost or damaged, the Department shall immediately be notified in writing by the installer. If possible, the assigned number shall be indicated. All damaged seals or compliance certificates or those

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unused from an installer who ceases business in Illinois shall be returned to the Department. No refund will be granted.

- e) Partially Completed Compliance Certificates. The licensed installer shall be responsible for completing as much information on the compliance certificates as is known prior to submitting the form to the Department, dealer and homeowner.

SUBPART D: REQUIREMENTS FOR THE INSTALLATION
OF MANUFACTURED HOMES

**Section 870.90 Requirements for the Installation of Manufactured Homes
EMERGENCY**

- a) *All manufactured homes installed after December 31, 2001 shall be installed under the on-site supervision of a licensed manufactured home installer.* [430 ILCS 117/25] The licensed installer shall provide sufficient on-site supervision to ensure quality installation as required by the manufacturer's specifications or, in the absence of the instructions provided by the manufacturer, this Part.
- b) Homes installed on a permanent foundation are not required to be installed by a licensed manufactured home installer.
- c) All homes shall comply with the anchoring requirements contained in Subpart E of this Part.
- d) The requirements of Sections 870.110 through 870.170 shall apply to homes installed where the instructions are not available.
- e) Nothing in this Part shall preclude local ordinances, including but not limited to zoning, building codes, or other ordinances not affecting installation standards or other exclusive State powers or functions under Section 60 of the Manufactured Home Quality Assurance Act.
- f) The home manufacturer data plate specifies the design criteria of the homes. For homes that do not have a data plate, the installation shall be designed for a roof live load design of 20 pounds per square foot.

**Section 870.100 Site Location
EMERGENCY**

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- a) The portion of the lot used for the placement of the manufactured home must be firm, undisturbed soil or compacted fill. The soil must be tested for its load-bearing capacity and graded to prevent surface water or drainage from accumulating under the home. For sites constructed after July 1, 2005, the ground must be sloped a minimum of ½ inch per foot for at least 6 feet from the perimeter of the home. Impervious surfaces such as concrete and asphalt in this area shall be sloped away from the home at least one inch per 6 feet.
- b) All decayable material, such as grass, twigs, and wood scraps, shall be removed from under the home. Shrubs and overhanging branches that will impede installation in accordance with this Part shall be removed.
- c) A minimum 6-mil visqueen vapor barrier, secured and extending to the dimensions of the home, must be placed on the ground underneath the manufactured home before the perimeter enclosure is installed, unless the home is placed on a poured concrete slab.
- d) When gutters and downspouts are installed, the discharge shall be directed away from the home.

**Section 870.110 Support Systems
EMERGENCY**

Each manufactured home shall be installed on a support system capable of supporting a total of 80 pounds per square foot.

- a) Footings. Footings must be placed on level, firm, undisturbed soil or compacted or controlled fill that is free of grass and organic materials, compacted to a minimum load bearing capacity of 2,000 pounds per square foot. Pre-owned homes for which the manufacturer of the home is no longer in business or for which the installation instructions are not available may be placed on an existing footing system if the system meets the requirements of this Section.
 - 1) Area. The area in square inches of the footings is based on the width of the home, the roof design loads, the soil load-bearing capacity and the intended spacing of the piers. (See 870.Tables A-G.)
 - 2) Types. Footings may consist of the following:

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- A) Individual pier footings consisting of precast or poured-in-place individual pier footing concrete at least 3½ inches thick with a 28-day compressive strength of 3,000 pounds per square inch.
 - B) Concrete runners a minimum of 3½ inches thick under each I-beam or perpendicular to the I-beams at no more than 8 foot intervals.
 - C) Concrete pads a minimum of 3½ inches thick the approximate dimension of the home.
 - D) Pressure treated wood having a 0.60 retention in accordance with the AWPA C22-03 Standard.
 - E) Acrylonitrile butadiene styrene (ABS) footing pads in accordance with pad manufacturer installation instructions and listed for the required load capacity and type of installation. Support devices and piers must not overlap the footings.
 - F) A support system approved by a licensed professional engineer.
- b) Piers. Piers or load-bearing supports or devices shall be designed and constructed to transmit the vertical live and dead loads to the foundation below. In order to properly support the home, the piers must be of the proper type, size, location and spacing. Piers shall be installed directly under the main frames of the home. Piers shall be no more than two feet from each end of the frame and adequately spaced. (See 870.Tables A-G.) Piers may be concrete blocks or adjustable metal or concrete devices approved and listed for the required load capacities. Load bearing supports or devices shall be listed and labeled, or shall be designed by a licensed professional engineer in Illinois, and shall be approved for the use intended, prior to installation.
- 1) Types. Non-mortared concrete blocks conforming to ASTM C 90-96 Type N with a nominal size of 8 inches by 8 inches by 16 inches shall be installed with the 16 inch dimension perpendicular to the main frame (I-beam), the open cells vertical, stacked level. A 2 or 4 inch thick 8 inch by 16 inch solid concrete cap block that conforms to ASTM C 90-96 Type N shall be placed on the top of each stack. The vertical load shall not exceed 8,000 pounds per single stack and 14,000 pounds for a double stack. The blocks must be stacked on a solid base pad in accordance with the soil

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bearing capacity. As many as 2 wood plates not exceeding 3 inches in combined thickness and 2 shims not exceeding 1 inch total thickness must be used to fill any gap between the concrete cap and main frame. Hardwood shims must be a minimum of 3 inches wide and 6 inches long fitted tight between cap or wood plate and main frame.

- 2) Clearance and Height. A minimum clearance of 12 inches must be provided between the ground and the bottom of the frame. If piers exceed 36 inches in height, they shall be double blocked. If the height exceeds 80 inches, the pier must be double blocked and mortared with rebar. If the home is placed in an area subject to flooding, a licensed professional engineer in Illinois shall design a support and anchoring system that will resist flood forces. The Federal Emergency Management Agency has information that may assist in the design.
- 3) Load-Bearing Openings. In addition to the piers under the main I-beams of the home, piers must be placed under openings in the perimeter walls and center-mating wall openings greater than 4 feet. (See 870.Tables E-G.)
- 4) Elevated Manufactured Homes. When more than $\frac{1}{4}$ of the area of a home is installed so that the bottom of the main frame is more than 7 feet above ground level, the home support system shall be designed by a licensed professional engineer in Illinois and installation shall be approved by the Department prior to the installation.

**Section 870.120 Structural Connections, Sealing and Patching
EMERGENCY**

- a) Structural Connections. Multi-section manufactured homes must be secured to immobilize each section, allow for the transfer of required loads, and protect interior and enclosed spaces. (See 870.Table H, Multi-Section Fastening Schedule.)
- b) Sealing. During installation, joints between all multi-section homes must be cleaned and shimmed where the gap exceeds $\frac{1}{2}$ inch top or bottom, then sealed with a weather-stripping gasket material to limit heat loss and prevent air, moisture and other damaging infiltration. The gasket material must be durable, non-porous caulking, closed cell foam, urethane or sill seal. Caulking, if used, must be capable of compressing and stretching. Sill seal, if used, must be a

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minimum of 5½ inches wide and attached with fasteners staggered at 6 inches on center.

- c) Patching. All cuts, holes or tears in the bottom board or floor insulation, including areas around structural connections and plumbing, mechanical and heating equipment penetrations, must be adequately repaired to help prevent the entrance of rodents, to limit heat loss and to prevent air, moisture and other damaging infiltration.

**Section 870.130 Electrical Hookup of Manufactured Homes
EMERGENCY**

All electrical distribution and services must comply with the National Electrical Code in existence at the time of the installation of the electrical service. The electrical service site supply must be a minimum of 100 amperes and rated for the capacity of the home.

**Section 870.140 Plumbing
EMERGENCY**

As specified by the Illinois Plumbing License Law [225 ILCS 320], all plumbing installed in Illinois shall be done by an Illinois licensed plumber or the owner and occupant of the home and shall comply with the Illinois Plumbing Code. A person who installs plumbing and is not a licensed Illinois plumber or is not the owner and occupant of the home can be fined up to \$5,000 in accordance with the provisions of Illinois Plumbing License Law and Plumbers Licensing Code.

**Section 870.150 Heating and Air Conditioning
EMERGENCY**

All on-site installations of heating and air conditioning systems shall meet the equipment manufacturer's specifications, comply with local code, and be performed by qualified personnel approved or licensed by the local jurisdiction for this work, a licensed manufactured home installer or the homeowner.

- a) Heating Equipment. The heating systems for most homes are provided with the duct systems installed. On-site installation consists of connecting the crossover duct for multi-section homes. Crossover ducts for multi-section homes must be supported aboveground, sealed to prevent air leaks and cut to length to avoid kinks.

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- b) Air Conditioning Equipment. Air conditioning equipment must be installed in accordance with the manufacturer's specifications and comply with local codes. The maximum electrical full load ampere draw for the desired air conditioning unit must not exceed the home manufacturer's circuit rating. Any field-installed wiring beyond the junction box must include a fused disconnect located within sight of the condensing unit. The maximum fuse size is marked on the condenser data plate. Charging of the air conditioning equipment must be performed by qualified personnel. Condensation from the air conditioning equipment must not drain underneath the home.
- c) Clothes dryer vents must exhaust outside the exterior of the home, or any perimeter foundation or skirting. The exhaust duct must be adequately supported and sealed. The installation of the duct must be in accordance with the manufacturer's instructions.

**Section 870.160 Natural and Liquefied Petroleum Gas Installation
EMERGENCY**

- a) Natural Gas. There are three codes affecting the operation of natural gas facilities in manufactured homes: the Pipeline Safety Regulations administered by the U.S. Department of Transportation for the pipeline to the meter; the National Fuel Gas Code written by the National Fire Protection Association for the piping from the meter to underneath the home, and the Manufactured Home Construction and Safety Standards, administered by the Department of Housing and Urban Development for the appliance installation, operation and venting in the home.
 - 1) Piping. Natural gas piping must be of approved materials.
 - A) Plastic piping approved for natural gas, ASTM 2513, must be installed below ground level, except that it may terminate aboveground if:
 - i) The aboveground part of the plastic service line is protected against deterioration and external damage; and
 - ii) The plastic service line is not used to support external loads. Plastic pipe, tubing and fittings shall be joined in accordance with manufacturer's instructions. An electrically continuous corrosion resistant tracer wire

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(Minimum 14 AWG (American wire gauge)) or tape shall be buried with the plastic pipe to facilitate locating.

- B) Metallic pipe shall be at least standard weight, Schedule 40. Copper and brass pipe shall not be used if the gas contains more than an average of 0.3 grains of hydrogen sulfide per 100 standard cubic feet of gas. Metallic tubing such as seamless copper (ASTM A254) shall be permitted to be used with gas not corrosive to such material.
- 2) Support. All piping under the home must be supported with appropriate hangers spaced at no more than 6 foot intervals for 1 inch diameter or less pipe and no more than 10 foot intervals for piping 1¼ inch in diameter or more.
- 3) Defects and Corrosion. Defects in pipe, tubing or fittings shall not be repaired. When defective pipe, tubing or fittings are located in a system, the defective material shall be replaced. Gas piping in contact with earth or other material that could corrode the piping shall be protected against corrosion in an approved manner.
- 4) Meters, Valves and Regulators. Meters and regulators must be installed in a readily accessible location and be protected from corrosion and other damage. Each service line must have a service line valve located upstream of the regulator or meter.
- 5) Location and Testing. Each buried main must be installed with at least 24 inches of cover and service lines with at least 18 inches of cover. The service line cover can be reduced to 12 inches if external damage to the pipe is not likely to result. The gas piping system must be tested for leaks prior to occupancy of the home.
- b) Liquefied Petroleum Gas (LP). LP gas containers must be approved for the intended use and properly located in accordance with the Standard for the Storage and Handling of Liquefied Petroleum Gases (NFPA 58-98) (Table 9 – Proper Location of Liquefied Petroleum Gas Containers).
- c) Oil Burning Equipment. Fuel oil burning equipment must be installed in accordance with the Standards for the Installation of Oil Burning Equipment (NFPA 31).

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**Section 870.170 Perimeter Enclosures
EMERGENCY**

- a) **Material and Ventilation.** The perimeter enclosure material shall be of material manufactured for this purpose. The material must be installed in a manner that will not allow water to be trapped between the perimeter material and the siding or trim to which it is attached. The perimeter enclosure material is to be vented according to the manufacturer's recommendation to prevent moisture buildup. If the manufacturer's specifications are not available, to assure proper ventilation, the open area of the vents must be equal to at least 1/300 of the floor area of the home.
- b) **Installation.** Perimeter enclosure material must be installed to accept possible frost heave. The perimeter enclosure must be installed to the manufacturer's specifications.
- c) **Access.** A utility inspection panel that can be opened without the use of tools and that is a minimum of 24 inches by 18 inches must be provided.

SUBPART E: MANUFACTURED HOME ANCHORING

**Section 870.190 Tiedown Equipment Approval
EMERGENCY**

- a) **Manufacturer's Approval.** Each tiedown manufacturer shall file with the Department a written request for approval to sell tiedown equipment in Illinois. In order to obtain approval, each tiedown manufacturer must submit the following:
 - 1) Detailed plans and specifications of all tiedown equipment, showing model identification number, pertinent dimensions, materials, and method of securing ties. Each drawing shall bear the seal of a licensed professional engineer in Illinois.
 - 2) Test data regarding the strength of all equipment, which has been prepared and certified by a recognized independent testing laboratory, demonstrating that the anchor and all tiedown equipment meet the requirements of this Section. Each piece of equipment must be tested a minimum of three times and be shown to meet the requirements of Section

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870.200. The tests must be conducted with the equipment installed according to the installation instructions.

- 3) A copy of the installation instructions for each anchor must accompany all anchors when sold. For ground anchors, the instructions shall include information as to the holding capability of the soils in which the anchor is certified to be installed, the method of installation, the type and size of stabilization devices required, the amount of pre-loading, and the method of tension adjustment after installation. The instructions for installation must be consistent with the testing of the equipment, especially with regard to the angle and depth of installation of ground anchors. The instructions for concrete anchors shall specify the minimum amount of concrete required, the distance from the edge of the concrete to the anchor and the compressive strength of the concrete. A copy of all instructions, including any revisions, must be submitted prior to the issuance of approval.
 - 4) Each anchor shall be permanently marked with an identification number that is visible when the equipment is installed.
 - 5) If the design, construction or installation instructions of any approved equipment are changed, approval must be obtained from the Department.
- b) **Alternative Approval.** A home owner, dealer, or installer who wishes to tie down a manufactured home with a unique system or materials different from one approved under subsection (a) must submit all information on material specifications, strength of equipment, and system design to the Department for approval. The approval will be based upon the criteria specified in Sections 870.200 and 870.220.
 - c) **Evidence of Approval.** The tiedown manufacturer shall present evidence of Department approval to any homeowner or installer upon request. Approval shall be evidenced by the letter of approval from the Department for the specific equipment.
 - d) **Previous Approvals.** All previous approvals issued by the Department for tiedown equipment shall become void January 1, 2006. New approval will be granted for the tiedown equipment previously approved with the exception that the ground anchor equipment will be rated at the soil holding capability of tests on file and not soil class ratings.

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Section 870.200 Equipment Specifications
EMERGENCY

- a) Tie materials shall be capable of resisting a force of 3,150 pounds with no more than 2 percent elongation and shall withstand at least 4,725 pounds without failure. Strapping must meet the requirements of ASTM D 3953-91, and cable must be a minimum of ¼ inch diameter galvanized 7 by 19 strand cable.
- b) Anchor equipment and ties shall be weather resistant. Each anchor, when installed, shall be capable of resisting a working load at least equal to 3,150 pounds in the direction of the tie plus 50 percent overload (4,725 pounds) without failure. Double headed anchors must resist vertical and horizontal loads. Failure shall be considered to have occurred when the point of connection between the tie and the anchor moves more than 2 inches at 4,725 pounds in the vertical direction. Anchors designed to be installed so that the loads on the anchor are other than direct withdrawal shall be designed and installed to resist an applied design load of 4,725 pounds at 45 degrees from horizontal without displacing the anchor more than 3 inches horizontally at the point where the tie attaches to the anchor.

Section 870.210 Compliance
EMERGENCY

- a) All manufactured homes and manufactured accessory structures installed after July 1, 2005 must be tied down in accordance with this Part, the home manufacturer's instructions and the tiedown manufacturer's instructions within 30 days after the home is installed on the site. All manufactured accessory structures shall be secured in accordance with the manufacturer's instructions.
- b) If frozen soil or wet soil prevents the installation of ground anchors, the 30 day deadline shall not apply. The home must, in this case, be anchored at the earliest possible date after the soil thaws or dries.

Section 870.220 Tiedown Installation Requirements
EMERGENCY

- a) Equipment. All manufactured homes installed after must be installed with equipment approved by the Department.
- b) Ties

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- 1) Cable, strapping or other approved material shall be used for ties.
 - 2) The ties shall connect from an anchor to the closest I-beam beneath the home. Ties shall not connect to steel outriggers, unless specifically stated in the home manufacturer's installation instructions. The angle formed between the tie and the ground shall be between 40 and 50 degrees. If this angle exceeds 50 degrees when the tie is connected to the nearest I-beam, a tie shall connect from an anchor to both I-beams of the unit.
 - 3) Ties shall be evenly spaced on each side of the length of the home with a maximum separation of 12 feet and with the end ties within 2 feet of each end.
 - 4) If steel strapping is used, it must be secured around the I-beam using an approved connecting device. Straps shall go from the anchor to the top of I-beam unless the home manufacturer's instructions indicate otherwise. Care shall be exercised to ensure that minimum bending radius is adhered to, so that the breaking strength of the strapping is not reduced.
 - 5) The ties shall be secured to the I-beam of the home so that they will not become disconnected if the tension is loosened.
 - 6) Ties must terminate with a D-ring, bolt or other tensioning device that will not lower the material strength below that stated in Section 870.200(a).
 - 7) All cable ends shall be secured with at least two utility bolt type clamps or other fastening device.
- c) Anchors
- 1) All anchors must be installed to full depth as specified in the anchor manufacturer's installation instructions.
 - 2) Stabilizing devices must be utilized when the load on the ground anchor is not applied in line with the anchor. Provisions shall be made to minimize the deflection or slicing through the soil by the anchor rod at ground level. The method of restricting deflection may be the encasement of the top portion of the anchor in a concrete collar or by the use of a stabilizer plate.

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- 3) Ground anchors installed in line with the load of the anchor must be a minimum of 48 inches in length.
- d) Frost Heave. The following measures shall be taken for the specific type of installation in order to prevent frost heave, which can cause damage to a home:
 - 1) If the support system for the home does not extend below the frost depth but the anchors do, the ties shall be adjusted (loosened slightly in the fall and tightened in the spring) to compensate for the tension caused by the earth movement.
 - 2) If the support system for the home extends below the frost depth but the anchoring system does not, the ties shall be tightened in the fall and loosened slightly in the spring.
 - 3) If the anchoring system and the support system for the home both extend below the frost depth or neither extends below the frost depth, no provisions for frost heave are necessary.
- e) Permanent Foundation. Homes installed on a permanent foundation as defined in Section 870.10 are exempted from this Part.

SUBPART F: MANUFACTURERS OF MANUFACTURED HOMES

**Section 870.230 Manufacturer's Responsibilities
EMERGENCY**

- a) Manufacturers shall include a copy of their installation requirements with each home located in Illinois.
- b) Upon request from the Department, manufacturers shall provide the Department with a copy of the installation requirements for a specific home.
- c) If a manufacturer will honor its home warranty for an installation system that is different than that specified in the installation instructions, such information shall be provided to the Department in writing.

SUBPART G: ADMINISTRATIVE HEARINGS

Section 870.240 Penalties

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EMERGENCY

The Department may revoke a license issued under the Manufactured Home Quality Assurance Act for a period not to exceed 6 months for a violation under the Act. A licensee is entitled to a hearing in accordance with the Illinois Administrative Procedure Act (IAPA). [430 ILCS 117/45]

- a) The Director, after notice and opportunity for hearing to the license holder, may revoke, for cause, a license issued under the Act for a period not to exceed 6 months.
- b) For purposes of this Section, "cause" means a violation of any provision of the Act or any rule adopted pursuant to the Act.
- c) The Department shall serve on the license holder a Notice of Opportunity for an Administrative Hearing, which shall contain:
 - 1) a statement of the nature of the action;
 - 2) a statement of the legal authority and jurisdiction under which the action is being initiated;
 - 3) a reference to the particular Sections of the statutes and rules involved;
 - 4) allegations of noncompliance; and
 - 5) a statement of the procedure for requesting an administrative hearing (Section 10-25 of the IAPA).
- d) Notice shall be provided by certified mail or by personal service setting forth the particular reasons for the proposed action and fixing a date, not less than 10 days from the date of the mailing or service, within which time the license holder must request, in writing, a hearing. Failure to serve upon the Department a written request for hearing within the time provided in the notice shall constitute a waiver of the person's right to an administrative hearing.
- e) Upon receipt of a timely request for hearing, the Department shall issue a Notice of Hearing or Pre-hearing Conference. The notice shall contain:
 - 1) a statement of the nature of the hearing;

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- 2) a statement of the time and place that the hearing or pre-hearing conference will be held;
 - 3) a statement of the legal authority and jurisdiction under which the hearing is to be held; and
 - 4) the names and mailing addresses of the administrative law judge, all parties, and all other persons to whom the agency gives notice of the hearing, unless otherwise confidential by law.
- f) The license holder shall file a written Answer to the Allegations of Noncompliance. The answer must be served on all parties within 20 days after receipt of the notice alleging noncompliance. If a license holder fails to file an answer, each alleged violation of a statute or Department rule by the license holder shall be deemed to have been admitted. If the license holder has insufficient knowledge of the facts to form a belief as to the truth of the allegation, the license holder may so state with an affidavit of insufficient knowledge.
- g) The hearing shall be conducted by the Director or by an individual designated by the Director as an Administrative Law Judge to conduct the hearing. The Director, or Administrative Law Judge, shall give written notice of the time and place of the hearing, by certified mail or personal service, to the applicant or license holder at least 10 days prior to the hearing. On the basis of the hearing, or upon default of the applicant or license holder, the Director shall make a determination specifying his or her findings and conclusions. A copy of the determination shall be sent by certified mail or served personally upon the applicant, license holder, or registrant. The decision of the Director shall be final on issues of fact and final in all respects unless judicial review is sought as provided in this Act.
- h) The procedure governing hearings authorized by this Section shall be in accordance with rules promulgated by the Department Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).
- i) A full and complete record shall be kept of all proceedings, including the notice of hearing, complaint, and all other documents in the nature of pleadings, written motions filed in the proceedings, and the report and orders of the Director and hearing officer.

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- j) The Department, at its expense, shall provide a court reporter to take testimony. Technical error in the proceedings before the Director or Administrative Law Judge or their failure to observe the technical rules of evidence shall not be grounds for the reversal of any administrative decision unless it appears to the Court that such error or failure materially affects the rights of any party and results in substantial injustice to any party.
- k) The Director or Administrative Law Judge may compel the attendance of witnesses and the production of books, papers, records, or memoranda.

**Section 870.250 Injunctive Relief
EMERGENCY**

If the Department finds that any installer or manufacturer is operating without a valid license, the Director of the Department may request that the Attorney General file a complaint in circuit court in the name of the People of the State of Illinois to enjoin that installer or manufacturer from engaging in unlicensed activities. [430 ILCS 117/50]

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**Section 870. TABLE A Soil Pressure
EMERGENCY**

| <u>Soil Type</u> | <u>Allowable Pressure (lbs/sq. ft.)</u> |
|--------------------------|-----------------------------------------|
| Hard Pan or Rock | 4,000 and up |
| Gravel or Sandy Gravel | 2,000 |
| Sandy or Silty Sand | 1,500 |
| Clay or Silty Clay | 1,000 |
| Peat or Uncompacted Fill | Special Analysis Required |

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**Section 870.TABLE B Footing Areas Required for Soil's Load-Bearing Capacity – Design Roof Load 20 Pounds Per Square Foot
EMERGENCY**

| Section Width (feet) | | | | | | | | | | |
|-----------------------------------------------------|------------------------------|------|------|------|------|------|------|------|------|------|
| | 12 | 14 | 16 | 12 | 14 | 16 | 12 | 14 | 16 | |
| Support Spacing (feet) | | | | | | | | | | |
| | 6 | 6 | 6 | 8 | 8 | 8 | 10 | 10 | 10 | |
| Support Loading (pounds per pier) | | | | | | | | | | |
| | 3200 | 3700 | 4250 | 4250 | 4950 | 5650 | 5300 | 6150 | 7050 | |
| Soil's Load-Bearing Capacity (lbs/ft ²) | Footing Area (square inches) | | | | | | | | | |
| | 1000 | 461 | 533 | 612 | 612 | 713 | 814 | 763 | 886 | 1015 |
| | 1500 | 307 | 355 | 408 | 408 | 475 | 542 | 509 | 590 | 677 |
| | 2000 | 230 | 266 | 306 | 306 | 356 | 407 | 382 | 443 | 508 |
| | 3000 | 154 | 178 | 204 | 204 | 238 | 271 | 254 | 295 | 338 |
| | 4000 | 144 | 144 | 153 | 153 | 178 | 203 | 191 | 221 | 254 |

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**Section 870.TABLE C Footing Areas Required for Soil's Load-Bearing Capacity – Design Roof Load 30 Pounds Per Square Foot
EMERGENCY**

| Section Width (feet) | | | | | | | | | | |
|-----------------------------------------------------|------------------------------|------|------|------|------|------|------|------|------|------|
| | 12 | 14 | 16 | 12 | 14 | 16 | 12 | 14 | 16 | |
| Support Spacing (feet) | | | | | | | | | | |
| | 6 | 6 | 6 | 8 | 8 | 8 | 10 | 10 | 10 | |
| Support Loading (pounds per pier) | | | | | | | | | | |
| | 3550 | 4150 | 4750 | 4750 | 5550 | 6350 | 5950 | 6950 | 7950 | |
| Soil's Load-Bearing Capacity (lbs/ft ²) | Footing Area (square inches) | | | | | | | | | |
| | 1000 | 511 | 598 | 684 | 684 | 799 | 914 | 857 | 1001 | 1145 |
| | 1500 | 341 | 398 | 456 | 456 | 533 | 610 | 571 | 667 | 763 |
| | 2000 | 256 | 299 | 342 | 342 | 400 | 457 | 428 | 500 | 572 |
| | 3000 | 170 | 199 | 228 | 228 | 266 | 305 | 286 | 334 | 382 |
| | 4000 | 144 | 148 | 171 | 171 | 200 | 229 | 214 | 250 | 286 |

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**Section 870.TABLE D Footing Areas Required for Soil's Load-Bearing Capacity – Design Roof Load 40 Pounds Per Square Foot
EMERGENCY**

| Section Width (feet) | | | | | | | | | |
|-----------------------------------------------------|------------------------------|------|------|------|------|------|------|------|-------|
| | 12 | 14 | 16 | 12 | 14 | 16 | 12 | 14 | 16 |
| Support Spacing (feet) | | | | | | | | | |
| | 6 | 6 | 6 | 8 | 8 | 8 | 10 | 10 | 10 |
| Support Loading (pounds per pier) | | | | | | | | | |
| | 3950 | 4650 | 5300 | 5300 | 6150 | 7050 | 6600 | 7700 | 8800* |
| Soil's Load-Bearing Capacity (lbs/ft ²) | Footing Area (square inches) | | | | | | | | |
| | 1000 | 569 | 670 | 763 | 763 | 886 | 1015 | 950 | 1109 |
| 1500 | 379 | 446 | 509 | 509 | 590 | 677 | 634 | 739 | 845 |
| 2000 | 284 | 335 | 382 | 382 | 443 | 508 | 475 | 554 | 634 |
| 3000 | 190 | 223 | 254 | 254 | 295 | 338 | 317 | 370 | 422 |
| 4000 | 144 | 167 | 191 | 191 | 221 | 254 | 238 | 277 | 317 |

- a) First footing centered within 2 feet from end of home.
- b)* Individual supports, concrete 8"x8"x16" blocks, shall NOT support loads greater than 8,000 pounds for a single stack and 14,000 pounds for a double stack pier.

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NOTICE OF EMERGENCY RULES

**Section 870.TABLE E Pier Load and Minimum Pier Capacity for 12 Foot Wide Section
(Pounds)
EMERGENCY**

| | Roof Live Load (psf) | Mating/Perimeter Wall Opening (feet) | | | | | | |
|------------------------------------|------------------------------|--------------------------------------|------|------|------|------|-------|--------|
| | | 5 | 10 | 15 | 20 | 25 | 30 | 35 |
| | 20 | 900 | 1800 | 2600 | 3500 | 4400 | 5300 | 6100 |
| | 30 | 1200 | 2300 | 3500 | 4700 | 5800 | 7000 | 8200 |
| | 40 | 1500 | 2900 | 4400 | 5800 | 7300 | 8800* | 10200* |
| Soil's Load-Bearing Capacity (psf) | Footing Area (square inches) | | | | | | | |
| 1000 | 20 | 144 | 259 | 374 | 504 | 634 | 763 | 878 |
| | 30 | 173 | 331 | 504 | 677 | 835 | 1008 | 1181 |
| | 40 | 216 | 417 | 634 | 835 | 1051 | 1267 | 1469 |
| 1500 | 20 | 144 | 173 | 250 | 336 | 422 | 509 | 586 |
| | 30 | 144 | 221 | 336 | 451 | 557 | 672 | 787 |
| | 40 | 144 | 278 | 422 | 557 | 701 | 845 | 979 |
| 2000 | 20 | 144 | 144 | 187 | 252 | 317 | 382 | 439 |
| | 30 | 144 | 166 | 252 | 338 | 418 | 504 | 590 |
| | 40 | 144 | 209 | 317 | 418 | 526 | 634 | 734 |
| 3000 | 20 | 144 | 144 | 144 | 168 | 211 | 254 | 293 |
| | 30 | 144 | 144 | 168 | 226 | 278 | 336 | 394 |
| | 40 | 144 | 144 | 211 | 278 | 350 | 422 | 490 |
| 4000 | 20 | 144 | 144 | 144 | 144 | 191 | 191 | 220 |
| | 30 | 144 | 144 | 144 | 169 | 209 | 252 | 295 |
| | 40 | 144 | 144 | 158 | 209 | 263 | 317 | 367 |

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- * Individual supports shall NOT support loads greater than 8000 pounds for a single stack of 8"x8"x16" stack of blocks, 14000 pounds for a double stack.

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**Section 870.TABLE F Pier Load and Minimum Pier Capacity for 14 Foot Wide Section
(Pounds)
EMERGENCY**

| | Roof Live Load (psf) | Mating/Perimeter Wall Opening (feet) | | | | | | |
|------------------------------------|------------------------------|--------------------------------------|------|------|------|-------|--------|--------|
| | | 5 | 10 | 15 | 20 | 25 | 30 | 35 |
| | 20 | 1000 | 2000 | 3000 | 4100 | 5100 | 6100 | 7100 |
| | 30 | 1400 | 2700 | 4100 | 5400 | 6800 | 8100* | 9500* |
| | 40 | 1700 | 3400 | 5100 | 6800 | 8400* | 10100* | 11800* |
| Soil's Load-Bearing Capacity (psf) | Footing Area (square inches) | | | | | | | |
| 1000 | 20 | 144 | 288 | 432 | 590 | 734 | 878 | 1022 |
| | 30 | 202 | 389 | 590 | 778 | 979 | 1166 | 1368 |
| | 40 | 245 | 490 | 734 | 979 | 1210 | 1454 | 1699 |
| 1500 | 20 | 144 | 192 | 288 | 394 | 490 | 586 | 682 |
| | 30 | 144 | 259 | 394 | 518 | 653 | 778 | 912 |
| | 40 | 163 | 326 | 490 | 653 | 806 | 970 | 1133 |
| 2000 | 20 | 144 | 144 | 216 | 295 | 367 | 439 | 511 |
| | 30 | 144 | 194 | 295 | 389 | 490 | 583 | 684 |
| | 40 | 144 | 245 | 367 | 490 | 605 | 727 | 850 |
| 3000 | 20 | 144 | 144 | 144 | 197 | 245 | 293 | 341 |
| | 30 | 144 | 144 | 197 | 260 | 326 | 389 | 456 |
| | 40 | 144 | 163 | 245 | 326 | 403 | 485 | 566 |
| 4000 | 20 | 144 | 144 | 144 | 148 | 184 | 220 | 256 |
| | 30 | 144 | 144 | 148 | 194 | 245 | 292 | 342 |
| | 40 | 144 | 144 | 184 | 245 | 302 | 364 | 425 |

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- * Individual supports shall NOT support loads greater than 8000 pounds for a single stack of 8"x8"x16" stack of blocks, 14000 pounds for a double stack.

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**Section 870.TABLE G Pier Load and Minimum Pier Capacity for 16 Foot Wide Section
(Pounds)
EMERGENCY**

| | Roof Live Load (psf) | Mating/Perimeter Wall Opening (feet) | | | | | | |
|------------------------------------|------------------------------|--------------------------------------|------|------|------|-------|--------|--------|
| | | 5 | 10 | 15 | 20 | 25 | 30 | 35 |
| | 20 | 1200 | 2300 | 3500 | 4700 | 5800 | 7000 | 8100* |
| | 30 | 1600 | 3100 | 4700 | 6200 | 7800 | 9300* | 10900* |
| | 40 | 1900 | 3800 | 5800 | 7500 | 9700* | 11600* | 13600* |
| Soil's Load-Bearing Capacity (psf) | Footing Area (square inches) | | | | | | | |
| 1000 | 20 | 173 | 331 | 504 | 677 | 835 | 1008 | 1166 |
| | 30 | 230 | 446 | 677 | 893 | 1123 | 1339 | 1570 |
| | 40 | 274 | 547 | 835 | 1080 | 1397 | 1670 | 1958 |
| 1500 | 20 | 144 | 221 | 336 | 451 | 557 | 672 | 778 |
| | 30 | 154 | 298 | 451 | 595 | 749 | 893 | 1046 |
| | 40 | 182 | 365 | 557 | 720 | 931 | 1114 | 1306 |
| 2000 | 20 | 144 | 165 | 252 | 338 | 418 | 504 | 583 |
| | 30 | 144 | 223 | 338 | 446 | 562 | 670 | 785 |
| | 40 | 144 | 144 | 418 | 540 | 698 | 835 | 979 |
| 3000 | 20 | 144 | 144 | 168 | 226 | 278 | 336 | 389 |
| | 30 | 144 | 149 | 226 | 298 | 374 | 446 | 523 |
| | 40 | 144 | 182 | 278 | 360 | 466 | 557 | 653 |
| 4000 | 20 | 144 | 144 | 144 | 169 | 209 | 252 | 292 |
| | 30 | 144 | 144 | 169 | 223 | 281 | 335 | 392 |
| | 40 | 144 | 144 | 209 | 270 | 349 | 418 | 490 |

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NOTICE OF EMERGENCY RULES

- * Individual supports shall NOT support loads greater than 8000 pounds for a single stack of 8"x8"x16" stack of blocks, 14000 pounds for a double stack.

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**Section 870.TABLE H Multi-Section Fastening Schedule
EMERGENCY**

| CONNECTOR LOCATION | FASTENER SIZE | FASTENER ANGLE | FASTENER SPACING |
|-------------------------------|------------------------------------------------------------|---------------------------|-----------------------------|
| Roof ridge beam connection | ½ inch carriage bolts | 90 degrees | 48 inches on center |
| Roof ridge beam connection | ¾ inch lag screws with washers | 45 degrees or less | 24 inches on center |
| Roof rafter connection | 4 inch by 10 inch 18 gauge straps with 10- 10d nails | 90 degrees | 48 inches on center |
| Floor rim joist connection | ¾ inch lag screws with washers | 45 degrees or less | 32 inches on center |
| Floor connection | Marriage clips | 90 degrees | Where installed |

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NOTICE OF EMERGENCY REPEALER

- 1) Heading of the Part: Illinois Manufactured Home Tiedown Code
- 2) Code Citation: 77 Ill. Adm. Code 870
- 3)

| <u>Section Numbers:</u> | <u>Emergency Action:</u> |
|-------------------------|--------------------------|
| 870.10 | Repealed |
| 870.20 | Repealed |
| 870.30 | Repealed |
| 870.40 | Repealed |
| 870.50 | Repealed |
| 870.60 | Repealed |
| 870.70 | Repealed |
| 870.TABLE A | Repealed |
- 4) Statutory Authority: Authorized by and implementing the Illinois Mobile Home Tiedown Act [210 ILCS 120]
- 5) Effective Date of Repealer: July 1, 2005
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A
- 7) Date filed with the Index Department: July 1, 2005
- 8) A copy of the emergency repealer including any material incorporated is on file and available for public inspection at the Illinois Department of Public Health, 525 W. Jefferson Street, Springfield, Illinois 62761-0001.
- 9) Reason for Emergency: On January 11, 2005, the Joint Committee on Administrative Rules issued an Objection and Filing Prohibition to proposed amendments to this Part that were published on January 30, 2004. The purpose of the Objection and Filing Prohibition was to “afford the Department and the affected parties more time to resolve the remaining issues with this [rulemaking].” JCAR requested that the Department meet with representatives from all organizations that submitted comments on this rulemaking and 77 Ill. Adm. Code 870, 770, and 885. After lengthy negotiations with interested parties and JCAR, agreements were reached, and the Filing Prohibition was withdrawn on April 12, 2005. The one-year expiration date for the rulemaking occurred on May 1, and the Department was not able to file the adopted amendments prior to that date. This emergency repealer reflects the agreements negotiated between the agency and JCAR, as certified by JCAR on April 12, 2005. Section 5-45 of the Illinois Administrative

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NOTICE OF EMERGENCY REPEALER

Procedure Act (IAPA) defines “emergency” as “the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare. The IAPA authorizes the use of emergency rulemaking if an agency finds that an emergency exists that requires adoption of a rule upon fewer days than is required under regular rulemaking procedures. The Department of Public Health finds that this situation constitutes an emergency because continued operation of the mobile home park program without adoption of these negotiated amendments constitutes a threat to the public interest, safety, and welfare. These rules include new safety regulations in regard to setback requirements, updated electrical installation requirements, fire hydrants, and water main size. Implementation of these requirements is important to protect the safety of mobile home park residents. These rules reflect agreements that are required by JCAR, based on JCAR’s review of the rulemaking that expired on May 1, 2005. The rules include implementation of amended provisions of the rules by July 1, 2005. Adoption of emergency rules will ensure that the Department complies with its agreements with JCAR.

- 10) A complete Description of the Subjects and Issues Involved: These rules are being repealed and replaced with new proposed rules. The contents of the Manufactured Home Tiedown Code will be included in the proposed Manufactured Home Installation Code (Part 870 new)
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking will not create or expand expenditures by units of local government.
- 13) Information and questions regarding this Repealer shall be directed to:

Susan Meister
IDPH Rules Coordinator
535 W. Jefferson Street
Springfield IL 62761-0001

217-782-2043

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY REPEALER

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER q: MOBILE HOMES

PART 870

ILLINOIS MANUFACTURED HOME TIEDOWN CODE (REPEALED)

Section

| | |
|-------------|-----------------------------------|
| 870.10 | Statutory Authority |
| 870.20 | Definitions |
| 870.30 | Tiedown Equipment Approval |
| 870.40 | Compliance |
| 870.50 | Tiedown Installation Requirements |
| 870.60 | Equipment Specifications |
| 870.70 | Administrative Hearings |
| 870.TABLE A | Soil Class Marking of Anchors |

AUTHORITY: Implementing and authorized by the Illinois Mobile Home Tiedown Act [210 ILCS 120].

SOURCE: Adopted at 4 Ill. Reg. 25, p. 148, effective July 1, 1980; codified at 8 Ill. Reg. 17513; amended at 21 Ill. Reg. 9475, effective July 1, 1997; emergency amendment at 22 Ill. Reg. 2626, effective January 14, 1998, for a maximum of 150 days; emergency expired June 13, 1998; amended at 23 Ill. Reg. 5609, effective June 1, 1999; repealed by emergency rulemaking at 29 Ill. Reg. 10371, effective July 1, 2005, for a maximum of 150 days.

Section 870.10 Statutory Authority

This Part is promulgated pursuant to authority granted by the Illinois Mobile Home Tiedown Act [210 ILCS 120].

Section 870.20 Definitions

In addition to the definitions contained in the Illinois Mobile Home Tiedown Act [210 ILCS 120] the following definitions shall apply:

Frost Depth. The normal maximum depth that frost penetrates the earth in a given area.

Frost Heave. An upthrust of ground or pavement caused by freezing of moist soil.

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Independent Testing Laboratory. An organization which:

Primarily is interested in testing and evaluating equipment; and

Is qualified and equipped to conduct and evaluate experimental testing in accordance with approved standards; and

Makes available a published report in which specific information is included stating that the equipment and installations have been tested and found safe for use in a specific manner; and

Is not under the jurisdiction or control of any manufacturer or supplier of any industry.

Length of a Manufactured Home. The distance from the exterior of the front wall (nearest to the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, drawbars, couplings, hitches, or other attachments.

Manufactured Home. A structure, transportable in one or more sections, which, while in the traveling mode, is eight body feet or more in width or 40 feet or more in length, or, when erected on site, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Any home defined in the Mobile Home Park Act [210 ILCS 115] as a "mobile home" is defined as a "manufactured home" for the purpose of this Part.

Permanent Foundation. A continuous perimeter formation intended to support and anchor the unit to withstand the specified design loads. It shall consist of materials such as concrete, mortared concrete block or mortared brick, steel or treated lumber extending into the ground below the frost depth which shall include basements or crawl spaces.

Site. The location where the manufactured home is connected to the required utilities for habitation.

Tiedown Manufacturer. Any person or business engaged in the manufacturing of

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tie down equipment which is offered for sale or use in this State.

Section 870.30 Tiedown Equipment Approval

- a) **Manufacturer's Approval.** Each tie down manufacturer shall file with the Department a written request for approval to sell tie down equipment in Illinois. The installation of such equipment shall not be permitted unless such equipment is approved by the Department. In order to obtain approval, each tie down manufacturer must submit the following:
- 1) Detailed plans and specifications of all tie down equipment showing model identification number, pertinent dimensions, materials, and method of securing ties. Each drawing shall bear the seal of a registered Professional Engineer.
 - 2) Test data regarding the strength of all equipment, which has been prepared and certified by a recognized independent testing laboratory, demonstrating that the anchor and all tie down equipment meets the requirements of Section 870.60. Each piece of equipment must be tested a minimum of three times and shown to meet the requirements of Section 870.60. The tests must be conducted with the equipment installed according to the installation instructions.
 - 3) A copy of the installation instruction for each anchor. These must accompany all anchors when sold. For ground anchors, information as to the types of soil in which the anchor is certified to be installed, the method of installation, the type and size of stabilization devices required, the amount of preloading, and the method of tension adjustment after installation. The instructions for installation must be consistent with the testing of the equipment especially with regard to the angle and depth of installation of ground anchors. The instructions for concrete anchors shall specify as a minimum the minimum amount of concrete required, the distance from the edge of the concrete and the compressive strength of the concrete. A copy of all revisions to instructions must be submitted prior to the issuance of approval.
 - 4) Each anchor shall be permanently marked with an identification number that is visible when the equipment is installed. This identification number must also include a soil class marking that indicates the soil class for which the anchor was approved. Table A indicates the markings to be

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used for the different types of soil classifications.

- 5) If the design, construction or installation instructions of any approved equipment are changed, approval must be obtained from the Department.
- b) **Alternate Approval.** A home owner, dealer, or installer who wishes to tie down a manufactured home with a unique system or materials different from one approved under subsection (a) above must submit all such information on material specifications, strength of equipment, and system design to the Department for approval. The approval will be based upon the criteria specified in Sections 870.50 and 870.60.
- c) **Evidence of Approval.** The tie down manufacturer shall present evidence of Department approval to any homeowner or installer upon request. Approval shall be evidenced by the letter of approval from the Department for the specific equipment.
- d) **Previous Approvals.** All approvals issued by the Department previously for tie down equipment shall become void on June 1, 1999. New approval must be obtained to sell tie down equipment in Illinois after June 1, 1999, in accordance with the criteria in subsection (a) of this Section.

Section 870.40 Compliance

- a) All manufactured homes and room expansions installed after June 1, 1999 must be tied down in accordance with this Part, the home manufacturer's instructions and the tie down manufacturer's instructions within 30 days after the home is installed on the site. All room expansions shall be secured in accordance with the manufacturer's instructions. Failure to comply with these requirements may void the home manufacturer's warranty.
- b) In the case where frozen soil or wet soil prevents the installation of ground anchors, this 30 day limit shall not apply. The home must, in this case, be anchored at the earliest possible date after the soil thaws or dries.

Section 870.50 Tiedown Installation Requirements

- a) **Design Criteria.** Homes placed in Illinois shall resist a minimum horizontal wind load of 22.5 pounds per square foot and a minimum uplift load of 13.5 pounds per square foot (Wind Zone 1).

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- b) Ties.
- 1) Cable, strapping or other approved material shall be used for ties.
 - 2) The ties shall connect from an anchor to the closest I-beam beneath the home. Ties shall not connect to steel outriggers, unless specifically stated in the home manufacturer's installation instructions. The angle formed between the tie and the ground shall be between 40 and 50 degrees. If this angle exceeds 50 degrees when the tie is connected to the nearest I-beam, a tie shall connect from an anchor to both I-beams of the unit.
 - 3) Ties shall be evenly spaced on each side of the length of the home with a maximum separation of 12 feet and with the end ties within two feet of each end.
 - 4) If steel strapping is used, it must be secured around the I-beam using an approved connecting device. Straps shall go from the anchor to the top of the I-beam unless the home manufacturer's instructions are provided indicating otherwise. Care shall be exercised to ensure that minimum bending radius is adhered to so that the breaking strength of the strapping is not reduced.
 - 5) The ties shall be secured to the I-beam of the home so that they will not become disconnected if the tension is loosened.
 - 6) Ties must terminate with a D-ring, bolt or other tensioning device that will not lower the material strength below that stated in Section 870.60(a).
 - 7) All cable ends shall be secured with at least two utility bolt type clamps or other fastening device.
- c) Anchors.
- 1) All anchors must be installed to full depth as specified in the anchor manufacturer's installation instructions.
 - 2) Stabilizing devices must be utilized when the load on the ground anchor is not applied in line with the anchor. Provisions shall be made to minimize deflection or slicing through the soil by the anchor rod at ground level.

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The method of restricting deflection may be the encasement of the top portion of the anchor in a concrete collar or by the use of a stabilizer plate.

- 3) Ground anchors installed in line with the load of the anchor must be a minimum of 48 inches in length.
- d) Frost Heave. The following measures shall be taken by the homeowner for the specific type of installation in order to prevent frost heave, which can cause damage to a home:
 - 1) If the support system for the home does not extend below the frost depth but the anchors do, the ties shall be adjusted (loosened slightly in the fall and tightened in the spring) to compensate for the tension caused by the earth movement.
 - 2) If the support system for the home extends below the frost depth but the anchoring system does not, the ties shall be tightened in the fall and loosened slightly in the spring.
 - 3) If the anchoring system and the support system for the home both extend below the frost depth or neither extends below the frost depth, no provisions for frost heave are necessary.
- e) Permanent Foundation. Homes installed on a permanent foundation are not required to comply with this Code if the foundation is constructed and the home anchored according to the requirements of the CABO One and Two Family Dwelling Code, 1995 Edition, published by the Council of American Building Officials. Copies of the code are available from the Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois, 60478-5795, 708/799-2300.

Section 870.60 Equipment Specifications

- a) Tie materials shall be capable of resisting a force of 3,150 pounds with no more than 2 percent elongation and shall withstand at least 4,725 pounds without failure. Strapping must meet the requirements of ASTM D3953.91 and cable must be a minimum 1/4 inch diameter galvanized 7 by 19 strand cable.
- b) Anchors. Anchor equipment and ties shall be weather resistant. Each anchor, when installed, shall be capable of resisting a working load at least equal to 3,150

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pounds in the direction of the tie plus a 50 percent overload (4,725 pounds) without failure. Double headed anchors must resist the vertical and horizontal loads. Failure shall be considered to have occurred when the point of connection between the tie and anchor moves more than two inches at 4,725 pounds in the vertical direction. Those anchors that are designed to be installed so that the loads on the anchor are other than direct withdrawal shall be designed and installed to resist an applied design load of 4,725 pounds at 45 degrees from horizontal without displacing the anchor more than 3 inches horizontally at the point where the tie attaches to the anchor.

Section 870.70 Administrative Hearings

Any request for a hearing and the conduct for such hearing shall be governed by the Illinois Department of Public Health Rules of Practice and Procedures in Administrative Hearings (77 Ill. Adm. Code 100).

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Section 870.TABLE A Soil Class Marking of Anchors

SOIL CLASS MARKING OF ANCHORS

| Soil Class | Soil Description | Torque Probe Value* | Anchor Marking |
|------------|---------------------------------------------------------------------------------------------|--------------------------|----------------|
| 1 | Sound hard rock. | N/A | C-1 |
| 2 | Very dense and/or cemented sands, coarse gravels/cobbles, preloaded silts, clays and coral. | 550 inch pounds and up | C-2 |
| 3 | Medium dense coarse sands, sandy gravels, very stiff silts and clays. | 350 to 550 inch pounds | C-3 |
| 4A | Loose to medium dense sands, firm to stiff clays and silts, alluvial fill. | 276 to 350 inch pounds | C-4A |
| 4B | Loose sands, firm clays and silts, alluvial fill. | 175 to 275 inch pounds** | C-4B |

Note: Ground anchors are designed for different soil classifications, longer models for loose soils, shorter models for harder soils. Prior to installing any ground anchor, the soil must be tested with a soil test probe in order to match approved ground anchors with site soil class. Also be advised that the manufacturers recommend different size stabilizer plates for the different soil classes.

* A soil test probe is a device for measuring the torque value of soils to assist in evaluating the holding capability of the soils in which the anchor is placed. The soil test probe has a helix on it. The overall length of the helical section is 10.75 inches; the major diameter is 1.25 inches; the minor diameter is 0.81 inches; the pitch is 1.75 inches. The shaft must be of suitable length for anchor depth.

** Below these values, a professional engineer should be consulted.

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NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Manufactured Housing and Mobile Structures
- 2) Code Citation: 77 Ill. Adm. Code 880
- 3)

| <u>Section Numbers:</u> | <u>Emergency Action:</u> |
|-------------------------|--------------------------|
| 880.5 | New |
| 880.10 | Amended |
| 880.15 | New |
| 880.20 | Amended |
| 880.30 | Amended |
| 880.40 | Amended |
| 880.50 | Amended |
| 880.60 | Repealed |
| 880.65 | New |
| 880.70 | Amended |
| APPENDIX A | Repealed |
- 4) Statutory Authority: Implementing and authorized by the Illinois Manufactured Housing and Mobile Home Safety Act [430 ILCS 115].
- 5) Effective Date of Amendments: July 1, 2005
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A
- 7) Date filed with the Index Department: July 1, 2005
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file and available for public inspection at the Illinois Department of Public Health, 525 W. Jefferson Street, Springfield, Illinois 62761-0001.
- 9) Reason for Emergency: On January 11, 2005, the Joint Committee on Administrative Rules issued an Objection and Filing Prohibition to proposed amendments to this Part that were published on January 30, 2004. The purpose of the Objection and Filing Prohibition was to “afford the Department and the affected parties more time to resolve the remaining issues with this [rulemaking].” JCAR requested that the Department meet with representatives from all organizations that submitted comments on this rulemaking and 77 Ill. Adm. Code 870, 770, and 885. After lengthy negotiations with interested parties and JCAR, agreements were reached, and the Filing Prohibition was withdrawn on April 12, 2005. The one-year expiration date for the rulemaking occurred on May 1, and the Department was not able to file the adopted amendments prior to that date. These

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emergency amendments are unchanged from the agreements negotiated between the agency and JCAR, as certified by JCAR on April 12, 2005. Section 5-45 of the Illinois Administrative Procedure Act (IAPA) defines “emergency” as “the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare. The IAPA authorizes the use of emergency rulemaking if an agency finds that an emergency exists that requires adoption of a rule upon fewer days than is required under regular rulemaking procedures. The Department of Public Health finds that this situation constitutes an emergency because continued operation of the mobile home park program without adoption of these negotiated amendments constitutes a threat to the public interest, safety, and welfare. These amendments include new safety regulations in regard to setback requirements, updated electrical installation requirements, fire hydrants, and water main size. Implementation of these requirements is important to protect the safety of mobile home park residents. These amendments reflect agreements that are required by JCAR, based on JCAR’s review of the rulemaking that expired on May 1, 2005. The agreements include implementation of amended provisions of the rules by July 1, 2005. Adoption of emergency amendments will ensure that the Department complies with its agreements with JCAR.

- 10) A complete Description of the Subjects and Issues Involved: These amendments describe requirements for the design, approval and construction of modular dwellings and commercial mobile structures. The existing rules establish the requirements for the design, approval and construction of modular dwellings and commercial mobile structures. The proposed amendments will utilize more current building codes, help defray costs of the program and insure that the units are properly inspected.
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objective: This rulemaking will not create or expand expenditures by units of local government.
- 13) Information and questions regarding these emergency amendments shall be directed to:

Susan Meister, IDPH Rules Coordinator
535 W. Jefferson Street,
Springfield, IL 62761-0001

217-782-2043
e-mail:rules@idph.state.il.us

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NOTICE OF EMERGENCY AMENDMENTS

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER q: MOBILE HOMES

PART 880

ILLINOIS MODULAR DWELLINGS~~MANUFACTURED HOUSING~~ AND MOBILE
STRUCTURES CODE

Section

880.5 ScopeEMERGENCY

880.10 Definitions

EMERGENCY880.15 Incorporated and Referenced MaterialsEMERGENCY

880.20 Plan Approval

EMERGENCY

880.30 Seals and Code Compliance Certificates

EMERGENCY

880.40 Fees

EMERGENCY

880.50 Inspections

EMERGENCY880.60 Applicable Safety Codes (Repealed)EMERGENCY880.65 Approval of Inspection AgenciesEMERGENCY

880.70 Enforcement

EMERGENCY880.APPENDIX A Amendments to the Adopted Codes (Repealed)EMERGENCY

AUTHORITY: Implementing and authorized by the Illinois Manufactured Housing and Mobile Home Safety Act [430 ILCS 115].

SOURCE: Filed May 13, 1975, effective May 23, 1975; amended at 3 Ill. Reg. 27, p. 100, effective July 6, 1979; codified at 8 Ill. Reg. 17514; Part repealed and new Part adopted at 9 Ill. Reg. 12839, effective September 1, 1985; amended by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005, for a maximum of 150 days.

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Section 880.5 Scope
EMERGENCY

- a) Applicability. This Part governs the design, construction, and installation of modular dwellings and mobile structures intended for installation in Illinois or any state that accepts the Department's approval of modular dwellings and mobile structures through a reciprocal agreement. Modular dwellings and mobile structures shall not be located in Illinois unless they have been approved pursuant to the Illinois Manufactured Housing and Mobile Home Safety Act.
- b) The construction of single family mobile structures known as "manufactured homes" is not regulated under this Part, but is regulated by the federal Department of Housing and Urban Development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (federal Act) (42 USC 5401). Units regulated under the federal Act are identified by a red emblem on the exterior of each section at the floor level opposite the towing hitch. Section 5403(d) of the federal Act prohibits any state or political subdivision from enforcing more stringent construction standards.
- c) The construction of commercial modular structures is not regulated under this Part. The Department has not been granted statutory authority to regulate the construction of such structures; however, local jurisdictions may regulate the construction of commercial modular structures.
- d) Design Acts. All activities concerning buildings and structures that are regulated by this Part that meet the definition of "project" in the Illinois Architecture Practice Act of 1989 [225 ILCS 305], the Professional Engineering Practice Act of 1989 [225 ILCS 325], and the Structural Engineering Practice Act of 1989 [225 ILCS 340] shall apply to any project defined within the scope of these Acts.
- e) Fire Safety. In addition to the requirements of this subchapter, all modular dwellings and mobile structures shall comply with the applicable provisions of the Fire Prevention and Safety Code (41 Ill. Adm. Code 100). Smoke detectors in modular dwellings and mobile structures shall comply with the applicable provisions of the Fire Prevention and Safety Code (41 Ill. Adm. Code 100). All modular dwellings must comply with the Smoke Detector Act [425 ILCS 60].
- f) Plumbing. All modular dwelling units and mobile structures shall conform to the Illinois Plumbing Code (77 Ill. Adm. Code 890).

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- g) Schools. All mobile structures designed to be used as a classroom shall conform to the Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180).

(Source: Added by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005, for a maximum of 150 days)

Section 880.10 Definitions**EMERGENCY**

- a) "Act" means the Illinois Manufactured Housing and Mobile Home Safety Act [430 ILCS 115]; Ill. Rev. Stat. 1983, ch. 67½, par. 501 et seq.
- b) "Alteration" means the replacement, modification, or removal of any system or installations ~~that which~~ may affect the structural, plumbing, electrical or mechanical system or the functioning of those elements thereof of units subject to ~~the~~this Act, but does not mean the replacement of free-standing appliances requiring plug-in to an electrical receptacle.
- e) "Approved Inspection Agency"~~"Authorized Agency"~~ means any person, firm, corporation, unit of government or employee thereof that is ~~authorized~~approved ~~or hired~~ by the Department to perform inspections or evaluation services.

"Building System" means the method of constructing a type of modular dwelling or mobile structure described by plans, specifications, and other documentation that together establish a set of criteria meeting the building codes, standards, and other requirements of this Part for that type of building or building components, which may include structural, electrical, mechanical, plumbing, fire protection systems and other systems affecting health and safety.

"Department" means the Illinois Department of Public Health.

"Manufactured Home" means a structure that is transportable in one or more sections that, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet; that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and that includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. These units previously were known as "mobile homes". The construction of these units is regulated by the federal Department of Housing and Urban Development.

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- Ⓔ) "Manufactured Housing" or "Manufactured Housing Unit" means a building assembly, or system of building sub-assemblies, designed for habitation as a dwelling for one or more persons, including the necessary electrical, plumbing, heating, ventilating, and other service systems that is of closed or open construction and is made or assembled by a manufacturer, on or off the building site, for installation, or assembly and installation, on the building site with a permanent foundation. (Section 2(i) of the Act) This term shall include modular dwellings.
- "Mobile Home" means a movable or portable unit that is 8 body feet or more in width and 32 body feet or more in length, constructed to be towed on its own chassis (comprised of frame and wheels) from the place of construction to the location or subsequent locations, subject to the provisions of Chapter 15, Article I (Size, Weight, and Load) of the Illinois Vehicle Code [625 ILCS 5/Ch. 15, Art. I], and designed to be used without a permanent foundation and connected to utilities for year round occupancy with or without a permanent foundation. The term shall include units containing parts that may be folded, collapsed, or telescoped when being towed and that may be expanded to provide additional cubic capacity, and units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing. The term shall include mobile structures designed to be used for residential, commercial, educational or industrial purposes, excluding, however, recreational vehicles. (Section 2(a) of the Act)
- "Mobile Structures" means those units defined in the Act as "mobile homes." The term shall include units designed for the purpose of housing more than one family; commercial units, industrial units and educational units. Manufactured homes that are singleSingle family units constructed in accordance with the Federal Manufactured Home Construction and Safety Standard (42 USCU.S.C. 5401) are not considered "mobile structures." These units are identified by a red emblem at the tailgate end of each unit.
- Ⓕ) "Model" means a specific floor plan of a unit that is to be constructed.
- Ⓖ) "Model Code Organization" means the International Code Council (ICC)of American Building Officials (CABO) or one of the three organizations thatwhich composecomprise the International Code Council of American Building Officials. These include the Building Officials and Code Administrators International, Inc.

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(BOCA), the Southern Building Code Congress International (SBCC) and the International Conference of Building Officials (ICBO).

- g) "Model Group" means a series of models having the same structural components. Configurations such as two story, L-shaped and bi-level shall constitute separate model groups. Each different width of the above-listed configurations constitutes a different model group.

"Modular Dwellings" means those units defined in the Act as "manufactured housing" or "manufactured housing units". This term shall include both sectional and panelized structures and shall include individual rooms that meet this criteria. Apartments, condominiums, and hotel and motel units shall be included as modular dwellings.

"Multiple Family Dwelling Unit" means a building or portion of a building containing more than two dwelling units.

- h) "Testing Agency" means an organization determined by the Department to be qualified by reason of facilities, personnel, experience, demonstrated reliability and independence of judgment to observe experimental testing in accordance with prescribed standards contained within the adopted codes in Section 880.15880.60 of this Part and prepares a report with the result of the test.

- i) "Variation to an Approved Model~~approved model~~" means a change to the design of an approved model of one or more of the following types:

- 1) The extension or reduction in length of the home not to exceed ~~four (4)~~ feet.
- 2) The relocation or addition of non-load-bearing walls, resulting in modification of a maximum of two ~~which changes not more than two (2)~~ rooms of the model.
- 3) The relocation of doors or windows within a room.
- 4) Other changes that do not affect the plumbing, electrical, mechanical or structural integrity of the units, such as the reversal of the floor plan layout, the relocation of an electrical receptacle ~~by six inches, the addition of a built-in bookcase in a non-load bearing wall~~, or the installation of sliding closet doors instead of hinged doors.

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(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005, for a maximum of 150 days)

Section 880.15 Incorporated and Referenced Materials**EMERGENCY****a) Incorporations by Reference**

All modular dwellings and mobile structures constructed for location in Illinois shall conform to the standards of the nationally recognized organizations listed in this subsection (a) and the standards listed in this subsection (a) are hereby incorporated by reference in this Part. These standards do not include amendments or editions after the date specified. Copies of the incorporated codes are available for public inspection at the Illinois Department of Public Health, Division of Environmental Health, 525 West Jefferson Street, Springfield, Illinois 62761, 217-782-5830.

1) Building

- A) All one and two family modular dwellings and duplex mobile structures shall conform to the International Residential Code, 2003 Edition, published by:**

International Code Council, Inc (ICC)
5203 Leesburg Pike, Suite 600
Falls Church, Virginia 22041-3401
703-931-4533

Chapters 25 through 32 are excluded from this incorporation.

- B) All multiple family modular dwellings and mobile structures other than duplex dwelling units shall conform to the International Building Code, 2003 Edition, published by:**

International Code Council, Inc (ICC)
5203 Leesburg Pike, Suite 600
Falls Church, Virginia 22041-3401
703-931-4533

2) Electrical

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- A) All one and two family dwellings and duplex mobile structures shall conform to the International Residential Code, 2003 Edition.
- B) All multiple family modular dwellings and mobile structures other than duplex dwelling units shall conform to the National Electrical Code, 2002 edition (NFPA 70-2002), published by:
- National Fire Protection Association (NFPA)
1 Batterymarch Park
Quincy, Massachusetts 02269-7471
800-344-3555
- 3) Energy. All modular dwellings and mobile structures shall conform to the International Energy Conservation Code, 2003 Edition, published by:
- International Code Council, Inc. (ICC)
5203 Leesburg Pike, Suite 600
Falls Church, Virginia 22041-3401
703-931-4533
- 4) Mechanical
- A) All one and two family modular dwelling units and duplex mobile structures shall conform to the International Residential Dwelling Code, 2003 Edition, and the International Fuel Gas Code, 2003 Edition.
- B) All multiple family modular dwellings and mobile structures shall conform to the International Mechanical Code and International Fuel Gas Code, 2003 Edition, published by:
- International Code Council, Inc. (ICC)
5203 Leesburg Pike, Suite 600
Falls Church, Virginia 22041-03401
703-931-4533
- 5) Personnel. Inspection agencies shall conform to the personnel requirements of ASTM E541-01 (2001), Standard Specification for Agencies in System Analysis and Compliance Assurance for

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Manufactured Building, published by:

American Society for Testing and Materials
100 Barr Harbor Drive
West Conshohocken, Pennsylvania 19428

6) GeneralA) General Exceptions to the Incorporated Codes

- i) The requirements of the incorporated codes pertaining to the administration and enforcement of the codes shall not apply because this Part and the Act address those areas. All definitions remain unchanged, except that terms such as "building official" and "authority having jurisdiction" shall mean the Department.
- ii) The Department is responsible for regulating the portion of the modular dwelling unit and mobile structure constructed at the factory. The on-site assembly shall not cause the unit to be in violation of any of the incorporated or referenced codes. Such aspects as the location of the units, their foundations and the installation of on-site utilities shall be subject to regulation by the local jurisdiction.
- iii) The provisions of the incorporated codes are not intended to limit the appropriate use of materials, appliances, equipment or methods of design or construction not specifically prescribed by the incorporated codes. Research reports from a model code organization or nationally recognized testing agency approving the use of alternate materials or methods of construction shall be considered sufficient evidence of compliance with the requirements of the incorporated or referenced codes subject to the limitations and conditions of such written approval. All requests for approval of alternatives shall be submitted in writing to the Department. The Department shall respond to such requests in writing within 30 days after receipt of a written request.

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iv) No revisions to the applicable code and requirements shall apply retroactively. The Department shall notify all manufacturers and approved inspection agencies of all code changes as reflected by amendments to this Part. Previously approved units manufactured on or after December 28, 2005 shall obtain new plan approval prior to their construction.

B) Exceptions to Specified Design Criteria. The following provisions shall apply to the design and construction of all modular dwellings and mobile structures:

i) Roofs shall be designed for a minimum live load of 30 pounds per square foot.

ii) Horizontal wind pressure shall be considered as acting on the gross area of the vertical projection and shall be considered for design purposes as not less than 25 pounds per square foot to a height of 30 feet and 30 pounds per square foot for heights over 30 feet above grade.

iii) Carpet or padding shall not be placed under any load-bearing walls.

iv) Ceiling material that is placed directly above top plates of bearing walls shall be of compressive strength capable of transmitting the required design loads without any type of failure to transmit the required ceiling and roof loads, or provisions shall be made to transfer the loads through material of sufficient strength.

v) Modular dwellings and mobile structures shall be fastened together at the floor system and roof systems to minimize any movement between multiple units.

vi) The following design parameters shall be used for the energy criteria in the use of the International Energy Conservation Code for all modular dwellings and mobile structures:

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- The winter design dry-bulb temperature shall be 4° Fahrenheit.
- The summer design dry-bulb temperature shall be 93° Fahrenheit.
- The summer wet-bulb temperature shall be 77° Fahrenheit.
- The degree days heating shall be 6800.

b) Materials Referenced in this Part

The following State statutes and regulations are referenced in this Part.

1) Illinois Accessibility Code (71 Ill. Adm. Code 400) promulgated by:

Capital Development Board
401 South Spring Street
Springfield, Illinois 62706
217-782-2864

2) Building Standards. The Illinois Architecture Practice Act of 1989 [225 ILCS 305], the Professional Engineering Practice Act [225 ILCS 325], and the Structural Engineering Practice Act [225 ILCS 340] can be obtained from:

Department of Financial and Professional Regulation
320 West Washington
Springfield, Illinois 62786

3) Fire Safety

A) The Fire Prevention and Safety Code (41 Ill. Adm. Code 100) promulgated by:

Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, Illinois 62703-4529
217-785-4714

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- B) The Fire Prevention and Safety Code (41 Ill. Adm. Code 100)
promulgated by:

Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, Illinois 62703-4529
217-785-4714

- C) The Smoke Detector Act [425 ILCS 60].

- 4) Plumbing. The Illinois Plumbing Code (77 Ill. Adm. Code 890),
promulgated by:

Illinois Department of Public Health
525 West Jefferson
Springfield, Illinois 62761
217-782-5830

- 5) Schools. The Health/Life Safety Code for Public Schools (23 Ill. Adm.
Code 180) promulgated by:

Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217-785-8779

- 6) Travel. Travel expenses shall be reimbursed in accordance with the rules
of the Governor's Travel Control Board (80 Ill. Adm. Code 2800) available
from:

Central Management Services
William G. Stratton Building
Springfield, Illinois 62706

(Source: Added by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005,
for a maximum of 150 days)

Section 880.20 Plan Approval**EMERGENCY**

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- a) General Requirements. All manufacturers must obtain written approval from the Department for each model to be manufactured for location in Illinois prior to manufacturing the model unless the provisions for reciprocity are met. Written approval is not required for a variation to an approved model. Two copies of the~~The~~ following must be provided for Department approval, along with the plan review fee specified in Section 880.40:
- 1) General information including:
 - A) the manufacturer's name, address and telephone number;
 - B) the location of each manufacturing facility where the models will be manufactured;
 - C) name or number ~~that~~which identifies each model for which approval is requested;
 - D) name of ~~contact~~the person whom the Department should contact regarding the submittal ~~(two copies of these items);~~
 - E) name and address of the approved inspection agency employed by the manufacturer.
 - 2) Plans, specifications and test results as required by subsection (b).~~Section 880.20(b) of this Part (two copies);~~
 - 3) Quality control manual containing the requirements of subsection (c).~~Section 880.20(c) of this Part (two copies);~~ 4) ~~Plan review fee as specified in Section 880.40 of this Part.~~
- b) Construction Details. Plans and specifications shall be drawn to scale and indicate the following minimum details:
- 1) Building Requirements
 - A) General
 - i) Floor Plan of each unit with all dimensions specified.
 - ii) Complete fastening schedule.

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- iii) Stair details.
- iv) Moisture content of lumber.
- v) Size of all doors and windows including installed height of egress window.
- vi) Light and ventilation schedule.
- vii) Size and location of crawl space and attic accesses.
- viii) Safety glazing specifications.
- ix) Flashing for doors and windows.
- x) Recommended foundation detail and crawl space ventilation.
- xi) Design loads for floor, walls, and roof systems.
- xii) Method of fire stopping openings.
- xiii) Pertinent engineering calculations and/or test data reports on structural members, splices and connections.
- xiv) Research reports from a model code organization indicating the approval of any material ~~that~~^{which} is proposed to be used but not specifically approved in one of the adopted codes.

B) Floor System

- i) Spacing, size, grade and species of framing material, including the allowable stress and modulus of elasticity.
- ii) Lateral and end support.
- iii) Location and size of notches and holes.

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- iv) Method of framing around openings such as stairways, plumbing pipes, heating components and wheel wells.
 - v) Size and type of subfloor/underlayment and panel identification index and method of installation.
 - vi) Type and "R" value of floor or foundation insulation.
 - vii) Type of vapor barrier.
- C) Wall System
- i) Ceiling height.
 - ii) Spacing, grade and species of framing materials.
 - iii) Typical framing details of corners, doors, windows, etc.
 - iv) Fire separation method and material between dwelling units and between dwelling unit and garage.
 - v) Method of corner bracing.
 - vi) Type of exterior sheathing and siding.
 - vii) Type of finished interior material and flame spread.
 - viii) Type and "R" value of insulation.
 - ix) Type of vapor barrier.
- D) Roof/Ceiling System
- i) Spacing, grade and species of framing material.
 - ii) Size and type of roof sheathing, panel index, and method of installation.
 - iii) Pitch of roof.

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- iv) Method and amount of attic ventilation.
 - v) Type and "R" value of insulation.
 - vi) Type of vapor barrier.
 - vii) Type of roof covering and underlayment.
 - viii) Type and flame spread of ceiling finish material.
 - ix) Detail and calculations of ridge beams.
 - x) Test results of trusses if evidence of design approval by a registered engineer or architect is not provided.
- 2) Plumbing
- A) Schematic of water supply, drainage and vent layout including size and type of all pipes, fittings, cleanouts and valves.
 - B) Method and interval of supporting all pipes.
 - C) Maximum trap to vent distances.
 - D) Slope of drainage and vent pipes.
 - E) Location of vacuum breakers, relief valves and air chambers.
- 3) Electrical
- A) A schematic of the electrical system showing the location of all receptacles, lights, switches, junction boxes and panel boxes.
 - B) Type and location of ground fault circuit interrupters.
 - C) Type and location of smoke detectors.
 - D) Size of all feeders and branch circuits.
 - E) Method and detail for grounding service equipment.

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- F) Typical load calculations for service and feeders.
 - G) Size and rating of main disconnect/overcurrent protective devices.
 - H) Protection and support of conductors.
 - I) Method of mounting fixtures and wiring installation.
 - J) Method of interconnection between two or more separately towable components and location of connections.
- 4) Mechanical
- A) Location and clearances of all mechanical equipment and appliances.
 - B) Manufacturer's~~Manufacturers~~ listing or labeling of all equipment.
 - C) Size and location of all registers.
 - D) Drawing of the duct system including the supply, return and combustion air with indication of the size, gauge and type of material and the method of support.
 - E) Location of flues, vents, clearances from air intakes and other vents and flues.
 - F) Venting of appliances.
 - G) Heat loss and heat gain calculations.
 - H) Drawings of the fuel supply system indicating the type and size of pipe, method and interval of support and required valves.
- 5) Verification of plans
- A) The plans for all multiple family modular dwellings~~manufactured housing units~~ and mobile structures other than duplex units shall bear the seal of an Illinois registered architect or equivalent if

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required by the Illinois Architecture Practice Act of 1989 [225 ILCS 305]~~(Ill. Rev. Stat. 1983, ch. 111, par. 1201 et seq.)~~.

- B) When designs cannot be verified by the incorporated or referenced~~adopted~~ codes of Section 880.15~~880.60 of this Part~~ or by calculations, tests of the components in question must be conducted by an independent testing agency.
- 6) Simplification of submittal
A complete set of plans for each separate model is not required if reference is made to the manufacturer's standard construction plans and if plans and specifications are provided for the specific changes from those standards.
- c) Quality Control Procedures
- 1) The manufacturer shall develop a procedure to assure that all operations at the plant are performed to conform to the requirements of this Part. Such procedures shall be contained in a quality control manual, which shall be available at the plant. As a minimum the following shall be contained in this manual:
- A) Material receiving inspection procedure.
- B) Material storage and stock rotation procedure.
- C) Description of construction stages with the title of the person responsible for each phase.
- D) Detailed list of all items that shall be inspected.
- E) Test procedures for testing the plumbing, fuel supply and electrical systems.
- F) Delivery procedures.
- G) Record-keeping procedures, including the procedures for ordering, assigning and filing the Department seal and compliance certificate and the approved inspection agency's report.

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- 2) The manufacturer shall update the manual to reflect any changes in the operation. These revisions shall be submitted to the Department ~~in duplicate.~~
- d) Evidence of Plan Approval
 - 1) If, after a review of the required plans, specifications and supporting information required in ~~this Section 880.20 of this Part~~, it is determined that the material is in compliance with this Part, an approval shall be issued to the manufacturer by the Department in writing. ~~A copy of this approval will be sent to the approved inspection agency employed by the manufacturer.~~ This approval shall specify the particular models ~~that which~~ are approved ~~and the location of the factory where construction of the units is approved.~~ The manufacturer shall keep one (+) set of approved plans at the manufacturing facility. ~~There shall be two types of approval issued, provisional and final.~~
 - A) ~~Provisional approval shall be granted if the review indicates items that are deficient but they are determined by the Department to be minor in nature. Items that are "minor in nature" are those deficiencies that would have little, if any, affect on the safety of the occupants of the home if not corrected. Examples include a slightly undersized window, a plumbing vent that is not located within the proper distance from the fixture and an electrical receptacle that is not properly located. Such items shall be clearly specified as conditions of the approval. The deficiencies must be corrected both in the plan submittal package and the actual construction of the units. Provisional approval shall expire on a specified date within six (6) months from the date of issuance.~~
 - B) ~~Only provisional approval shall be granted to a new manufacturer until an inspection of the manufacturing facility by the Department or an authorized agency has been performed.~~
 - C) ~~Final approval shall be issued if the plan review of the model(s) indicates compliance with all aspects of this Part and the manufacturing facility has been inspected by the Department or an authorized agency and found to comply with the adopted codes in Section 880.60 of this Part.~~

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- 2) The Department shall compile a list of all manufacturers approved to locate models in Illinois. The list shall be available to any person by contacting the Illinois Department of Public Health, Division of Environmental Health~~Engineering and Sanitation~~, ~~525535~~ West Jefferson, Springfield, Illinois ~~62761, 217-782-5830~~~~62701~~.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005, for a maximum of 150 days)

Section 880.30 Seals and Code Compliance Certificates**EMERGENCY**

- a) Requirements. Each ~~modular dwelling~~~~manufactured housing~~ unit and mobile structure manufactured or offered for sale or rent for location in Illinois shall bear an Illinois seal as required by the Act unless the unit bears a seal from a state which has a reciprocity agreement with this State. The approved inspection agency must also place a label of approval on the finished unit and provide a copy of the inspection report of the structure to the manufacturer. The seal and label shall be placed on the unit before it is shipped from the plant. A code compliance certificate is required for all units manufactured or offered for sale or rent for location in Illinois.
- b) Acquisition. Seals and code compliance certificates shall be issued to an approved~~a~~ manufacturer, upon request, after written approval as specified in Section 880.20(d) ~~of this Part~~ is obtained from the Department and the required fees specified in Section 880.40 ~~of this Part~~ are submitted.
- c) Location of Seal and Inspection Agency's Label. The Illinois seal and the label of the approved inspection agency that inspected the structure shall be placed on the electrical panel box of the ~~modular dwelling~~~~manufactured housing~~ unit or mobile structure. Only one Illinois seal and one inspection agency label ~~are~~ required per each complete modular dwelling ~~unit~~ or ~~totally assembled~~ mobile structure, regardless of the number of sections that constitute the unit. A seal and label shall be required for each apartment unit, each half of a duplex unit and each motel room.
- 1) If an electrical panel box is not provided by the manufacturer, the seal and label shall be placed on the inside of the cabinet door under the kitchen sink.

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- 2) Upon receipt of a written request from a manufacturer, the Department shall grant permission to locate the seal ~~and label~~ in another specific location if the seal ~~and label~~ cannot be located in ~~either of the above-specified locations~~ accordance with Section 880.30(c)(1) of this Part.
- d) Code Compliance Certificate.
- 1) Each code compliance certificate provided by the Department consists of four identical forms. Within ~~thirty (30) days~~ after ~~from~~ the shipment of the ~~modular dwelling~~ manufactured housing unit or mobile structure from the plant, the manufacturer shall complete ~~and forward~~ the white copy of the certificate and forward it to the Department. ~~The manufacturer~~ He shall keep the yellow copy ~~and shall~~ distribute the blue copy to the approved inspection agency ~~dealer~~ and the pink copy to the owner of the manufactured unit.
 - 2) This certificate shall contain the following information:
 - A) Name of the manufacturer.
 - B) Location of manufacturing facility.
 - C) Manufacturer's serial number.
 - D) Model name or number.
 - E) Department approval number. If the model is a variation to an approved model, two copies of the floor plan of the approved model shall be submitted to the Department with the minor changes indicated in red.
 - F) State seal number assigned to the unit.
 - G) Final location of structure including street address if known.
 - H) Name and location of dealer.
 - I) Date manufactured.
 - J) Signature of manufacturer's authorized representative.

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K) Name of the inspection agency that inspected the structure.

L) Dates of inspection by the approved inspection agency.

- e) Lost or Damaged Seals or Code Compliance Certificates. If a seal or code compliance certificate becomes lost or damaged, the manufacturer shall immediately notify the Department ~~shall immediately be notified~~ in writing ~~by the manufacturer~~. If possible, the assigned number shall be indicated. All damaged seals or code compliance certificates or those unused from a manufacturer who ceases business in Illinois shall be returned to the Department, but no refund ~~will~~shall be granted.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005, for a maximum of 150 days)

Section 880.40 Fees**EMERGENCY**

- a) All fees shall be in the form of a check, certified check or money order payable to the Illinois Department of Public Health.
- b) A schedule of fees is established as follows:
- 1) Plan Review
 - A) A fee of \$150.00 per model group is required for the Department's review of the required plans and specifications.
 - B) In addition to the model group fee, each model shall require a fee of \$25.00.
 - C) There shall be no fee required for variations to an approved model as defined in Section 880.10 of this Part.
 - 2) Seal and Code Compliance Certificate. The fee for each seal shall be \$25.00 and the fee for each code compliance certificate shall be \$25.00.
 - 3) Plant Inspections. Out-of-state manufacturers shall reimburse the Department for ~~the~~ travel expenses of the inspector to and from the

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inspector's headquarters for an inspection by Department staff. The rules of the Governor's Travel Control Board~~Illinois Travel Regulations~~ (80 Ill. Adm. Code 2800) shall serve as the schedule for the reimbursable expenses. In the case where more than one manufacturing facility is inspected during an out-of-state trip, the total travel expenses incurred will be divided equally by the number of facilities inspected. The plant inspection fee shall be required to be paid within ~~ten (10)~~ days after~~of~~ the date of receipt of the bill.

4) Inspection Agencies

A) The initial application fee for approval of an inspection agency shall be \$500.

B) The annual renewal fee for each calendar year shall be \$300, which shall be due January 1 of each year.

5) Annual Review of Inspection Agencies. The Department shall conduct an annual evaluation of each inspection agency at a factory or the agency's office. The inspection agency shall reimburse the Department for the allowable expenses to and from the Department's headquarters associated with the annual evaluation. Travel regulations of the Governor's Travel Control Board (80 Ill. Adm. Code 2800) shall serve as the schedule for the reimbursable expenses. In the case where more than one inspection agency is reviewed, the total travel expenses incurred will be divided equally by the number of agencies reviewed. The travel expenses shall be paid within 10 days after receipt of the bill.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005, for a maximum of 150 days)

Section 880.50 Inspections**EMERGENCY**

- a) Approved Inspection Agency. After January 1, 2005, all modular dwellings and mobile structures located in Illinois shall be inspected at the factory by an approved inspection agency. Each manufacturer shall submit to the Department, in writing, the name of the inspection agency that will be conducting its inspections. Any changes to this information shall be provided to the Department in writing. The Department shall maintain a list of approved inspection agencies,

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which shall be available to interested individuals upon request.

- b) Responsibility. The inspection agency shall be responsible for review of manufacturer plans, documents and procedures for completeness and compliance with the requirements of this Part. The inspection agency shall then conduct inspections to ensure compliance with the plans and procedures. The inspection must occur when all portions of the construction can be inspected.
- c) Monitoring. Representatives of the Department shall conduct periodic inspections to monitor the inspection agencies and the manufacturers for compliance with the Act and this Part.
- d) Violations. All violations cited at the factory shall be corrected prior to placing the Illinois seal and inspection agency's label on the structure. Violations discovered at the final location shall be corrected within 30 days after written notification, except that serious violations that threaten the safety of the occupants of the structure shall be corrected within 5 days after notification. The Department may require the manufacturer to remove, at the manufacturer's expense, building materials that prevent the Department from inspecting the entire unit. Such removal will be requested only if the unit was constructed without the necessary approval or if plans for the unit were approved but items that can be inspected are not in accordance with approved plans.
- e) Factory Closing. If a manufacturer closes its operation, it shall notify the Department and the inspection agency in writing. Unused Illinois seals and code compliance certificates shall be returned to the Department when a factory closes.
- a) Authority. Representatives of the Department shall perform inspections necessary to assure compliance of manufactured housing units and mobile structures with the requirements of this Part and the Act. The manufacturer shall be responsible for correcting, within a specific period of time, any violations revealed as a result of an inspection. The specified period of time will depend upon the nature and severity of the violations (usually less than thirty (30) days). Any violations which pose an immediate hazard to the health of any occupants, such as faulty electrical wiring, must be corrected immediately. The Department shall have the authority to require the manufacturer to remove at his expense building materials which prevent the Department from inspecting the entire unit. Such removal can be requested only if the unit has been determined to be in violation of this Part or the Act. Examples would be if the unit was constructed without the necessary approval or if the plans for the unit were approved but items that can be inspected

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~~are not in accordance with the approved plans.~~

- b) ~~Authorized Agency. The Department may approve or hire an authorized agency to inspect manufactured housing units and mobile structures. Such approval shall be based on an evaluation of the qualifications of agency personnel to perform the particular inspection and shall be in writing. All inspectors must have a minimum of a high school education and two years of experience in the building construction industry.~~
- e) ~~Inactive Status. An approved manufacturer may request in writing to be placed on inactive status if he does not intend to manufacture any units for location in Illinois for a period of at least three (3) months. The Department will not perform routine inspections of the facility until written notice from the manufacturer is received indicating intent to produce units for location in Illinois. The manufacturer shall not manufacture any units for location in Illinois while on inactive status. It shall be the responsibility of the manufacturer to notify the Department in writing if the plant is to close permanently.~~
- d) ~~If a manufacturer is not going to be open for business for more than three days, then the manufacturer must contact the Department prior to this time in order to avoid charges for any inspections attempted while the manufacturer was closed.~~

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005, for a maximum of 150 days)

Section 880.60 Applicable Safety Codes (Repealed)**EMERGENCY**

~~All manufactured housing units and mobile structures constructed for location in Illinois shall conform to the following adopted safety codes and the requirements contained in Appendix A.~~

- a) ~~Accessibility. The requirements of the Accessibility Standards Illustrated (71 Ill. Adm. Code 400) promulgated by the Capital Development Board, 401 South Spring Street, Springfield, Illinois 62706 shall be met for units within the scope of the standards.~~
- b) ~~Building~~
 - 1) ~~All one and two family manufactured housing units and duplex mobile structures shall conform to the One and Two Family Dwelling Code, 1983~~

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~~edition, published by the Council of American Building Officials (CABO), 1201 One Skyline Place, 5205 Leesburg Pike, Falls Church, Virginia 22041, Parts V, VI and VII shall be excluded from adopted by this Department.~~

- ~~2) All multiple family manufactured housing units and multiple family mobile structure dwelling units shall conform to the BOCA Basic National Building Code, 1984 edition, published by the Building Officials and Code Administrators International, Inc. (BOCA), 4051 West Flossmoor Road, Country Club Hills, Illinois 60477.~~
- ~~3) All mobile structures other than dwelling units shall comply with the Standard for Mobile Homes, 1974 edition, (NFPA No. 501B or ANSI.A119.1) published jointly by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269 and the American National Standard Institute, Inc., 1430 Broadway, New York City, New York 10018.~~
- ~~e) Electrical. All manufactured housing units and mobile structures shall conform to the National Electrical Code, 1984 edition, (NFPA 70-1984) as published by the the National Fire Protection Association (NPPA) Batterymarch Park, Quincy, Massachusetts 02269.~~
- ~~d) Energy. All manufactured housing units and mobile structures designed as dwellings shall conform to the Model Energy Code, 1983 edition, as published by the Council of American Building Officials (CABO), 1201 One Skyline Place, 5205 Leesburg Pike, Falls Church, Virginia 22041.~~
- ~~e) Fire Safety. All manufactured housing units and mobile structures shall comply with the applicable provisions of the Fire Prevention and Safety Code, (41 Ill. Adm. Code 100) promulgated by the Office of the State Fire Marshal, 3150 Executive Park Drive, Springfield, Illinois 62706.~~
- ~~f) Mechanical. All multiple family manufactured housing units shall conform to the BOCA Basic National Mechanical Code, 1984 edition, as published by the Building Officials and Code Administrators International, Inc. (BOCA), 4051 West Flossmoor Road, Country Club Hills, Illinois 60477. One and two family dwelling units shall conform to the mechanical requirements contained in the One and Two Family Dwelling Code, 1983 edition.~~

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- ~~g) Plumbing. All manufactured housing units and mobile structures shall conform to the Illinois Plumbing Code (77 Ill. Adm. Code 890) promulgated by the Illinois Department of Public Health, 535 West Jefferson, Springfield, Illinois 62761.~~
- ~~h) Schools. All mobile structures designed to be used as a classroom shall conform to the Efficient and Adequate Standards for the Building Specifications for the Construction of Schools (Standard A-156) (23 Ill. Adm. Code 175) promulgated by the Illinois State Board of Education, 100 North First, Springfield, Illinois 62777.~~
- ~~i) Other Requirements.~~
- ~~1) The adopted nationally recognized codes listed above do not include amendments or editions made after the date specified.~~
- ~~2) Local governmental units may enforce requirements in accordance with Section 4 of the Act.~~
- ~~j) Availability. Copies of the adopted codes are available for public inspection at the Illinois Department Public Health's Central Office identified in Section 880.20(d)(2) of this Part.~~

(Source: Repealed by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005, for a maximum of 150 days)

Section 880.65 Approval of Inspection Agencies**EMERGENCY**

- a) Initial Approval Procedures
- 1) Application Requirements. An inspection agency seeking approval shall submit a written application to the Department that shall include the following items:
- A) The original articles of incorporation of the agency and all subsequent amendments to those articles, as filed in the state of incorporation.
- B) The bylaws of the organization, if any.

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- C) The names, addresses, and business interests of all members of the board of directors and of management personnel.
- D) Certification by the agency that:
- i) Its board of directors and technical personnel can exercise independence of judgment;
 - ii) Its activities will result in no financial benefit to the agency via stock ownership, or other financial interests in any producer, supplier, or vendor of products involved, other than through standard published fees for services rendered.
- E) Names, years of experience, state in which professionally registered, and other qualifications of the directors of inspection programs.
- F) Names and years of experience of employees practicing in the following disciplines: architecture, structural engineering, mechanical engineering, electrical engineering, fire protection, and other branches of professional engineering; the states in which each is registered; and the services each performs.
- G) An organizational chart showing management and supervisory persons, including the number of graduate engineers and architects and the names of all consulting engineers or architects, designating which are full-time and which are part-time. The personnel requirements of the American Society for Testing and Materials (ASTM E-54), Criteria for Agencies in System Analysis and Compliance Assurance for Manufactured Buildings, shall be met.
- H) Number and location of factory inspectors, supervisors, and other technicians, including evaluators of factory inspectors and the qualifications of each specialized group, including records of work experience, licenses held, and other pertinent qualifications. Descriptions shall be included of the type of work each group and each technician is expected to perform.
- I) Statement from the agency to assure that all inspectors, evaluators, and other technicians are properly trained to do each job assigned

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to them.

- J) An outline of the general procedures for supervision of inspectors and evaluators, including checking and evaluation of their work.
 - K) Names of all engineers, technicians, and other personnel who will perform services for the organization but who are not employees of the organization, and the supervisory and other relationships that each will have to the agency.
 - L) A list of the types of products, components, equipment, structures, and other items that the organization has evaluated, tested, or inspected, and the number of years of experience the organization has had with each.
 - M) A list of the types of codes, standards, specifications, and requirements with which the organization has had experience in providing inspection or testing services, and the number of years of experience with each.
 - N) Description of the record-keeping system the agency proposes to use, with particular regard to availability of records to the Department and the capacity to send reports to the Department.
 - O) Description of the frequency with which the agency performs inspections or evaluations.
 - P) List of the states in which the agency is now approved to inspect or evaluate modular dwellings, mobile structures or building components for compliance with approved building systems.
- 2) Incomplete or incorrect applications will not be accepted for processing and will be returned to the applicant within 30 days after receipt by the Department, with a written explanation of the reasons why the application was not acceptable to the Department. Applications can be resubmitted with necessary corrections.
 - 3) Complete applications will be accepted for processing, and the applicant will be notified in writing of that acceptance within 30 days after the date the application is received by the Department.

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- A) The Department shall conduct an evaluation either at the agency's office or at a manufacturing facility within 30 days after the application is determined to be in compliance with this Part, but prior to the issuance of the initial approval.
 - B) The Department shall approve inspection agencies that meet the requirements of this subsection (a) and that the Department finds qualified to perform the functions proposed to be delegated to them.
 - C) In the event the evaluation of the agency's office or factory finds those facilities to be inadequate to meet the requirements of this Part, the Department shall return the complete application to the applicant with a written explanation of the reasons for disapproval.
- 4) Approved inspection agencies shall be notified by the Department in writing. The approval letter will state the specific functions that the applicant has been approved to perform. The initial approval shall expire December 31 of the year following the date of the approval letter.
- b) Annual Approval of Inspection Agencies
- 1) The Department shall conduct an annual evaluation of each approved inspection agency for the purpose of evaluating the performance of each agency in monitoring the manufacturer's compliance assurance program.
 - 2) These evaluations may be conducted at any reasonable time, with or without prior notice, at either the inspection agency's office or at a manufacturer's place of business,
 - 3) Each evaluation shall investigate:
 - A) The adequacy of all engineering evaluations of plans, specifications and test results;
 - B) Testing and analysis of compliance assurance programs;
 - C) Procedures used by the agency in the monitoring activity, including personnel selection, training, supervision, reporting

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accuracy, use of approved documents, evaluation of reports, decision criteria, and all other activities that measure the effectiveness of the manufacturer's program.

- 4) A report of evaluation results will be compiled and maintained by the Department. A copy of the report will be sent to the inspection agency, along with notification of any deficiencies determined during the evaluation and the means and time frame for correction of the deficiencies.
- 5) If deemed necessary by the Department, an agency's approval may be suspended or revoked as provided in subsection (c).

c) Suspension and Revocation

1) Grounds

- A) The Department may suspend or revoke its approval of any inspection agency if the approval was issued on the basis of incorrect information or issued in violation of the Act or this Part.
- B) If the Department determines that the inspection agency has failed to perform its functions properly, the Department shall notify the agency and arrange for an informal presentation of views. If an informal presentation of views fails to achieve resolution, the Department shall notify the agency in writing of its intent to suspend or revoke the approval.

2) Procedures in Event of Suspension or Revocation

- A) General. If the Department suspends or revokes the approval of an inspection agency, the manufacturers being evaluated by the agencies shall be given notice in writing after the disposition of any appeal of the suspension or revocation.
- B) Temporary Arrangement to Continue Manufacturing. After the suspension or revocation of any inspection agency, the Department, upon the request of any manufacturer affected, shall establish a temporary arrangement by which the manufacturer can continue to manufacture, sell, lease, deliver and install modular dwellings and mobile structures in accordance with the Act and

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this Part until the suspension or revocation is removed or arrangements are completed to utilize another approved inspection agency.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005, for a maximum of 150 days)

Section 880.70 Enforcement**EMERGENCY****a) Violations and Remedial Actions**

- 1) Whenever the Department's authorized inspection agency determines that a structure constructed under this Part fails to conform to the requirements of this Part or that the approved compliance assurance program is not followed, the inspection agency shall notify the manufacturer of the existence of the violation. The manufacturer shall be provided the opportunity to correct the violation in a manner acceptable to the inspection agency. If the violation comes first to the attention of the Department, the Department shall notify the inspection agency so that it can carry out its responsibilities under this Section.
- 2) If the manufacturer fails to successfully resolve the problem or correct the violation within 30 calendar days, the inspection agency shall notify the Department of the failure. The Department shall order the manufacturer to correct the violation.
- 3) If a manufacturer fails to correct a violation within the period specified by the Department, that failure shall subject the manufacturer to the penalties provided in Section 10 of the Illinois Manufactured Housing and Mobile Home Safety Act.

- b)** Failure to comply with any provisions of this Part or the Act shall constitute sufficient grounds for suspension, revocation or refusal to grant approval to a manufacturer or an authorized inspection agency. The Department's Rules ~~and Regulations~~ of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) will govern such actions.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005, for a maximum of 150 days)

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Section 880.APPENDIX A Amendments to the Adopted Codes (Repealed)
EMERGENCY

- a) ~~General Amendments~~
- 1) ~~The requirements to the adopted codes pertaining to the administration and enforcement of the codes shall not apply since this Part and the Act addresses those areas. All definitions remain unchanged except terms such as "building official" and "authority housing jurisdiction" shall mean the Illinois Department of Public Health.~~
 - 2) ~~The Department is responsible for regulating the portion of the manufactured housing unit or mobile structure constructed at the factory. The on-site assembly shall not cause the unit to be in violation of any of the adopted codes. The local jurisdiction shall have the authority to regulate such aspects as the location of the units, their foundation and the installation of the on-site utilities.~~
 - 3) ~~The provisions of the adopted codes are not intended to limit the appropriate use of materials, appliances, equipment or methods of design or construction not specifically prescribed by the codes. The approval in writing by the Building Officials and Code Administrators International, Inc., the Council of American Building Officials, the International Conference of Building Officials, the National Fire Protection Association, or the Southern Building Code Congress International of alternate material or methods of construction shall be considered sufficient evidence of compliance with the requirements of the adopted codes, subject to the limitations or conditions of such written approval. All requests for approval shall be in writing to the Department. The Department shall respond to such requests in writing within sixty (60) days of receipt of a written request.~~
- b) ~~The following provisions shall apply to the design and construction of all manufactured housing units:~~
- 1) ~~Roofs shall be designed for a minimum live load of 30 pounds per square foot.~~
 - 2) ~~Horizontal wind pressure shall be considered as acting on the gross area of the vertical projection and shall be considered for design purposes as not~~

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~~less than 25 pounds per square foot to a height of 30 feet and 30 pounds per square foot for heights over 30 feet above grade.~~

~~3) The manufacturer must comply with the requirements for seismic loads, frost depth and termite infestation specified by the adopted building codes for the area of the State the unit is expected to be located during the design, construction and installation of the unit.~~

~~4) Carpet or padding shall not be placed under any bearing walls.~~

~~5) Ceiling material which is placed directly above top plates of bearing walls shall be of compressive strength capable of transmitting the required design loads without any type of failure to transmit the required ceiling and roof loads or provisions shall be incorporated to transfer the loads through material of sufficient strength.~~

~~6) Manufactured housing units shall be fastened together at the floor system and roof system to prevent any movement.~~

~~e) In the use of the Model Energy Code, the following design parameters shall be used for all manufactured housing units:~~

~~1) The winter design dry-bulb temperature shall be 4° Fahrenheit,~~

~~2) The summer design dry-bulb temperature shall be 93° Fahrenheit,~~

~~3) The summer design wet-bulb temperature shall be 77° Fahrenheit,~~

~~4) The degree days heating shall be 6800.~~

(Source: Repealed by emergency rulemaking at 29 Ill. Reg. 10381, effective July 1, 2005, for a maximum of 150 days)

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- 1) Heading of the Part: Manufactured Home Installer Course Accreditation Code
- 2) Code Citation: 77 Ill. Adm. Code 885
- 3)

| <u>Section Numbers:</u> | <u>Emergency Action:</u> |
|-------------------------|--------------------------|
| 885.10 | Repealed |
| 885.20 | Repealed |
| 885.30 | Repealed |
| 885.40 | Repealed |
| 885.50 | Repealed |
- 4) Statutory Authority: Authorized by and implementing the Illinois Manufactured Home Installers Act [430 ILCS 120]
- 5) Effective Date of Repealer: July 1, 2005
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A
- 7) Date filed with the Index Department: July 1, 2005
- 8) A copy of the emergency repealer, including any material incorporated by reference, is on file and available for public inspection at the Illinois Department of Public Health, 525 W. Jefferson Street, Springfield, Illinois 62761-0001.
- 9) Reason for Emergency: On January 11, 2005, the Joint Committee on Administrative Rules issued an Objection and Filing Prohibition to proposed amendments to this Part that were published on January 30, 2004. The purpose of the Objection and Filing Prohibition was to “afford the Department and the affected parties more time to resolve the remaining issues with this [rulemaking].” JCAR requested that the Department meet with representatives from all organizations that submitted comments on this rulemaking and 77 Ill. Adm. Code 870, 770, and 885. After lengthy negotiations with interested parties and JCAR, agreements were reached, and the Filing Prohibition was withdrawn on April 12, 2005. The one-year expiration date for the rulemaking occurred on May 1, and the Department was not able to file the adopted amendments prior to that date. These emergency rules are unchanged from the agreements negotiated between the agency and JCAR, as certified by JCAR on April 12, 2005. Section 5-45 of the Illinois Administrative Procedure Act (IAPA) defines “emergency” as “the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare. The IAPA authorizes the use of emergency rulemaking if an agency

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finds that an emergency exists that requires adoption of a rule upon fewer days than is required under regular rulemaking procedures. The Department of Public Health finds that this situation constitutes an emergency because continued operation of the mobile home park program without adoption of negotiated amendments constitutes a threat to the public interest, safety, and welfare. The amendments include new safety regulations in regard to setback requirements, updated electrical installation requirements, fire hydrants, and water main size. Implementation of requirements is important to protect the safety of mobile home park residents. This repealer reflects an agreement required by JCAR, based on JCAR's review of the rulemaking that expired on May 1, 2005. Agreements include implementation of amended provisions of the rules by July 1, 2005. Adoption of emergency amendments will ensure that the Department complies with its agreements with JCAR.

- 10) A complete Description of the Subjects and Issues Involved: These rules are being repealed and replaced with new proposed rules. The Manufactured Home Installer Accreditation Code is to be included with the proposed Manufactured Home Installation Code (Part 870 new)
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking will not create or expand expenditures by units of local government.
- 1a) Information and questions regarding this Repealer shall be directed to:
 - Name: Susan Meister, IDPH Rules Coordinator
 - Address: 535 W. Jefferson Street, Springfield, IL 62761-0001
 - Telephone: 217-782-2043
 - e-mail: rules@idph.state.il.us

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

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NOTICE OF EMERGENCY REPEALER

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER q: MOBILE HOMES

PART 885

| MANUFACTURED HOME INSTALLER COURSE ACCREDITATION CODE **(REPEALED)**

Section

| | |
|--------|--------------------------------------------------------------------|
| 885.10 | Definitions |
| 885.20 | Incorporated and Referenced Materials |
| 885.30 | Accreditation of Manufactured Home Installer Course |
| 885.40 | Responsibilities of Accredited Manufactured Home Installer Courses |
| 885.50 | Accredited Manufactured Home Installer Course Curriculum |

AUTHORITY: Implemented and authorized by the Illinois Manufactured Home Installers Act [430 ILCS 120].

SOURCE: Adopted at 25 Ill. Reg. 8297, effective June 25, 2001; repealed by emergency rulemaking at 29 Ill. Reg. 10417, effective July 1, 2005, for a maximum of 150 days.

Section 885.10 Definitions

"Act" means the Illinois Manufactured Home Installers Act [430 ILCS 120].

"Department" means the Illinois Department of Public Health.

"Training hour" means at least 50 minutes of actual teaching, including time devoted to lecture, learning activities, small group activities, demonstrations, evaluations and/or practical, hands-on instruction.

Section 885.20 Incorporated and Referenced Materials

- a) Incorporations by Reference
 - 1) The following standards, regulations, and laws are incorporated in this Part:
 - A) Regulations and guidelines of federal agencies:
Transportation of Natural and Other Gas by Pipeline:

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Minimum Federal Safety Standards (49 CFR 192)
United States Department of Transportation, Office of Pipeline
Safety
400 7th Street, S.W.
Washington, D.C. 20590

B) Standards of nationally recognized organizations:

National Fire Protection Association
1 Batterymarch Park
P.O. Box 9101
Quincy, Massachusetts 02269-9101:

- i) National Electrical Code, 1999 Edition (NFPA 70-99)
- ii) Installation of Oil Burning Equipment, 1997 Edition (NFPA 31-97)
- iii) National Fuel Gas Code, 1996 Edition (NFPA 54-99)
- iv) Liquefied Petroleum Gas Code, 1998 Edition (NFPA 58-98)

- 2) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.
- 3) All citations to federal regulations in this Part concern the specified regulation in the 1997 Code of Federal Regulations, unless another date is specified.

b) Referenced Materials

The following standards, regulations, and laws are referenced in this Part:

- 1) State of Illinois rules:
 - A) Manufactured Home Community Code (77 Ill. Adm. Code 860)
 - B) Illinois Manufactured Home Tiedown Code (77 Ill. Adm. Code

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870)

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

2) State of Illinois statutes:

A) Illinois Mobile Home Park Act [210 ILCS 115]

B) Illinois Mobile Home Tiedown Act [210 ILCS 120]

C) Illinois Plumbing License Law [225 ILCS 320]

Section 885.30 Accreditation of Manufactured Home Installer Course

- a) An entity that offers or plans to offer a manufactured home installer course shall obtain Department accreditation for the course by submitting to the Department in writing the following information at least 60 days before the beginning of the course:
- 1) The name, address, telephone number, and contact person for the entity providing the course.
 - 2) The course location and written documentation that the course provides facilities for classroom and field hands-on training of sufficient size to accommodate the maximum enrollment of the course.
 - 3) Beginning and ending dates for the course.
 - 4) A course schedule and syllabus.
 - 5) Student and instructor manuals for the course.
 - 6) Documentation of a principal instructor who shall be responsible for the organization of the course and oversight of the teaching of all course material. Guest instructors may be utilized as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course. The principal instructor shall have the following qualifications:
 - A) at least two years of education in building construction technology;

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or

- B) two years of experience in managing a training program specializing in the installation of manufactured homes.
- 7) A final examination for the course that includes criteria for pass/fail. The course must require at least 70% correct on the final examination as a passing score.
- 8) An example of the certificate of course completion that includes the following information:
 - A) the name, address, and telephone number of the entity providing the course;
 - B) the name, dates of attendance at course, and indication of a passing grade for the student to whom the certificate is issued.
- b) The Department shall notify the course sponsor in writing whether the request for accreditation has been approved.
- c) For requests that are not approved, the Department's notification will include the reason for disapproval. The course sponsor may submit a revised request for accreditation in which items noted to be incomplete in the initial request are completed.
- d) The Department shall maintain and make available to the public a list of approved course sponsors.

Section 885.40 Responsibilities of Accredited Manufactured Home Installer Courses

- a) The entity offering an accredited training course shall be responsible for maintaining training course records and making such records available to the Department as necessary.
 - 1) Course records shall be retained at the address specified on the training program accreditation application, as modified, for a minimum of 3 years.
 - 2) The entity shall notify the Department in writing within 30 days:

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- A) after changing the address specified on the training course accreditation application; or
 - B) transferring records to a new address.
- 3) The Department shall have the authority to enter, inspect and audit training facilities and to examine records to determine compliance with the Act and this Part.
- b) Training course records that shall be maintained include the following:
- 1) All documents that demonstrate the qualifications of the principal instructor, as specified in Section 885.30(a)(6).
 - 2) Current curriculum/course materials and documents reflecting any changes made to these materials.
 - 3) A copy of the course final examination.
 - 4) Results of the course final examination and a record of each certified installer's course completion.
 - 5) Any other materials specified in Section 885.30 that have been submitted to the Department as part of the program approval.
- c) Within 30 days after course completion, entities offering accredited courses shall submit to the Department a list of installers completing a course.

Section 885.50 Accredited Manufactured Home Installer Course Curriculum

Each accredited manufactured home installer course shall provide instruction on how to install a manufactured home to the specifications of the manufacturer, *review the* Guidelines for the Installation of Manufactured Homes published by the Department, *and test the written and practical installation skills of the individual installer* (Section 15 of the Act). Each course shall consist of at least 10 training hours that include the following topics:

- a) The installer's responsibility to obtain a copy of the home manufacturer's setup manual to ensure proper setup of the home in accordance with the home's warranty.

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- b) The inspection of the proposed site of the home prior to setup to ensure proper location.
- c) Ensuring that the proposed site has drainage away from the home, vegetation cleared from under the home, and vapor barriers provided.
- d) Support of the home by a foundation system in accordance with the design loads of the home, the existing soil load bearing capacity of the home location, the Illinois Mobile Home Park Act, the Manufactured Home Community Code, and local authority requirements.
- e) Safety consideration for the setup of a home.
- f) Proper leveling of the home and placement of piers or foundation walls in accordance with the home manufacturer's specifications.
- g) Proper anchoring in accordance with the Illinois Mobile Home Tiedown Act and the Illinois Manufactured Home Tiedown Code.
- h) The installation of the plumbing for the home in accordance with the Illinois Plumbing License Law and the Illinois Plumbing Code.
- i) The installation of the electrical system for the home in compliance with the National Electrical Code.
- j) The installation of the gas or oil utilities for the home in compliance with the requirements of the Installation of Oil Burning Equipment, National Fuel Gas Code, Liquefied Petroleum Gas Code, and the Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards.

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Procedures for License Hearings
- 2) Code Citation: 11 Ill. Adm. Code 205
- 3)

| <u>Section Number:</u> | <u>Proposed Action:</u> |
|------------------------|-------------------------|
| 205.10 | Amendment |
| 205.20 | Amendment |
| 205.30 | Amendment |
| 205.40 | Amendment |
| 205.50 | Repeal |
| 205.60 | Amendment |
| 205.70 | Repeal |
| 205.75 | New Section |
| 205.80 | Amendment |
| 205.85 | New Section |
| 205.90 | Amendment |
| 205.95 | New Section |
| 205.100 | Amendment |
| 205.110 | Amendment |
| 205.120 | Amendment |
| 205.125 | New Section |
| 205.140 | Amendment |
| 205.150 | Amendment |
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Amendments: July 1, 2005
- 6) If this emergency amendment is to expire before the 150 day period, please specify the date on which it is to expire: N/A
- 7) Date filed with the Index Department: July 1, 2005
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The dates hearing for 2006 race dates is scheduled for September 20, 2005. The emergency amendments must be in effect prior to the August 1, 2005 application deadline.

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- 10) A Complete Description of the Subjects and Issues Involved: These are proposed changes to the Racing Board's Administrative rules concerning procedures for conducting Dates Hearings. The revised rules provide for a Licensing Hearing for the award of racing dates conducted according to the provisions of the Illinois Administrative Procedure Act. Part 205 is currently restrictive in that applicants are required to pre-file all testimony as written testimony. The proposed amendments will allow for applicants to present their case-in-chief at the public board meeting through witness testimony, followed by cross examination by the other parties. The proposed amendments also restrict ex parte communications between applicants and track operators and further defines the parameters of any ex parte communications, discovery, evidence and procedures to conduct hearings.
- 11) Are there any other proposed amendments pending in this Part? No
- 12) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 13) Information and questions regarding these amendments shall be directed to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

(312) 814-5017
mickey_izzo@irb.state.il.us

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULESPART 205
PROCEDURES FOR LICENSE HEARINGS

Section

205.10 Purpose

EMERGENCY

205.20 Notice

EMERGENCY

205.30 Filing of Applications

EMERGENCY

205.40 Use of Applications

EMERGENCY205.50 Filing of Evidence Supporting Applications (Repealed)EMERGENCY

205.60 Parties

EMERGENCY205.70 Service of Application and Evidence Supporting Application (Repealed)EMERGENCY205.75 DiscoveryEMERGENCY

205.80 Pre-Hearing Conference

EMERGENCY205.85 Hearing OfficerEMERGENCY205.90 Filing and Service of Responsive Evidence & MotionsEMERGENCY205.95 EvidenceEMERGENCY

205.100 Licensing Hearing

EMERGENCY

205.110 Disqualification of Hearing Officer

EMERGENCY

205.120 Ex Parte Communications

EMERGENCY205.125 Record

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EMERGENCY

205.130 Incorporation of Part 204

205.140 Notice to and Acceptance by Applicants

EMERGENCY

205.150 Emergency Hearing to Re-award Dates

EMERGENCY

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Emergency adoption at 16 Ill. Reg. 16318, effective October 6, 1993, for a maximum of 150 days; emergency expired March 5, 1993; emergency rule adopted at 17 Ill. Reg. 6859, effective April 16, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 13615, effective July 30, 1993; emergency amendment at 19 Ill. Reg. 8011, effective June 5, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13953, effective October 1, 1995; amended at 20 Ill. Reg. 7944, effective June 1, 1996; emergency amendment at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days.

Section 205.10 PurposeEMERGENCY

The purpose of this Part is to provide procedures to govern the conduct of the licensing hearing (~~the "Licensing Hearing"~~) provided for in Section 20 of the Illinois Racing Act (the "Racing Act"); [230 ILCS 5/20], supplemental to those provided for in Part 204. This Part implements the provisions of the Racing Act, and the Illinois Administrative Procedure Act (the "IAPA"); [5 ILCS 100], and should be construed to give effect to, and not to limit, the rights conferred by those Acts thereby. ~~This Part~~ These rules expressly ~~adopts~~ adopt the applicable provisions of the IAPA, including the IAPA's provisions applicable in contested cases, such as the Licensing Hearing. (~~See Section IAPA, 10-65 of the IAPA and the Open Meetings Act [5 ILCS 120].~~);

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.20 NoticeEMERGENCY

- a) At least ~~30~~ thirty days prior to the application deadline, the Board shall provide all current organization licensees, and any other person who has requested an application for an organization license to conduct a horse race meeting, with notice of the Licensing Hearing, including:

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- 1)(a) a statement of the time, place and nature of the Licensing Hearing (e.g., the award of host dates or whether the Licensing Hearing will determine the allocation of racing dates in a single year or in multiple years) and the time, place and date of the pre-hearing conference; ~~what conditions the Board proposes to impose upon licensees; whether the Licensing Hearing will determine inter-track wagering licenses and proposed conditions upon inter-track wagering licenses, such as a requirements that an inter-track wagering licensee receive simulcasts of certain races other than its own races);~~
- 2)(b) a statement of the legal authority and jurisdiction under which the Licensing Hearing is to be held;
- 3)(c) a reference to the particular Sections of the substantive and procedural statutes involved;
- 4)(d) a short and plain statement of the matters at issue and the consequences of a failure to participate in the Licensing Hearing; and
- 5)(e) the name and address of any hearing officer the Board may appoint, or a statement that the members of the Board themselves intend to preside as hearing officers at the Licensing Hearing.
- b) ~~The~~This notice of the Licensing Hearing shall be made public and shall also be posted in accordance with the rules governing the posting of agendas for Board meetings.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.30 Filing of Applications**EMERGENCY**

Applications for an organization license to conduct a horse racing meeting in Illinois pursuant to the Racing Act shall be filed at the office of the Board no later than 5:00 p.m. on August 1 (or if August 1 is not a business day, the next business day thereafter) of the year prior to the year in which the meet is sought. Each applicant shall file with the Board ~~fifteen (15)~~ copies of the application and all exhibits referred to in the application ~~with the Board.~~

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(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.40 Use of Applications**EMERGENCY**

- a) Applications shall state with particularity the type of license and dates sought to be awarded. Requests for licenses and dates may be made in the alternative. Applications are admissible into evidence as proof of what an applicant seeks or as admissions of parties, according to the rules of evidence.
- b) Upon written request of any party, the Board shall provide to all parties for review of the applications submitted by the opposing parties; however, the Board shall make a determination whether to disclose any information that would be barred by Section 7 of the Freedom of Information Act [5 ILCS 140/7].

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.50 Filing of Evidence Supporting Applications (Repealed)**EMERGENCY**

~~Each applicant for an organization license shall file, simultaneously with its application, fifteen (15) copies of the following:~~

- ~~(a) prefiled written testimony in the form of an affidavit or affidavits (or pursuant to certificate as provided in Section 1-109 of the Illinois Code of Civil Procedure), and in question and answer format, supporting its Petition. Except as stipulated by the parties, this written testimony, together with any exhibits referred to therein, shall constitute the applicant's case in chief at the Licensing Hearing. The written testimony shall conform to the provisions of Illinois Supreme Rule 191(a) applicable to affidavits offered in support of, or in opposition to, motions for summary judgment; and~~
- ~~(b) all exhibits referred to in the application or prefiled written testimony.~~

(Source: Repealed by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.60 Parties

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EMERGENCY

Parties to the Licensing Hearing consist of persons who have filed an application for an organization license. ~~In addition, pursuant to Section 16(e) of the Racing Act, the Attorney General of the State of Illinois may participate as a party, at the request of the Racing Board, in order to protect public rights and enforce public duties arising in the Licensing Hearing.~~ No other person, ~~other than outside counsel for the parties and a witness or witnesses called by the parties pursuant to the rules of evidence,~~ may ~~intervene or~~ participate in the Licensing Hearing before the Racing Board or its duly appointed ~~hearing officer~~Hearing Officer, except that this provision shall not be construed to prohibit ~~the Board and/or the hearing officer~~Hearing Officer from taking official notice of staff data or memoranda pursuant to Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40]. ~~The Board shall be permitted to call lay and/or expert witnesses.~~ This ~~Section~~Rule shall not prohibit representatives of any organization, ~~including one~~ representing ~~the majority of owners, trainers, jockeys, drivers or other~~ horsemen, from providing ~~testimonial or other~~ evidence of its membership's position on any application ~~at the invitation of the Board or other party, subject to Sections 205.95 and 205.100 evidentiary rules and cross-examination through written testimony, sponsored by a party, as provided for herein.~~ In the event an organization wishes to provide evidence of its membership's position on any application and can find no party to sponsor it as a witness, the organization may apply to the Hearing Officer for permission to provide written testimony subject to cross-examination as provided herein. ~~The Hearing Officer shall allow such testimony, subject to the evidentiary rules set forth herein, upon a showing that despite reasonable efforts by the organization, no party would sponsor the testimony of the organization.~~ Permission to an organization to provide testimony under this Section shall not make that organization a party or confer any of the rights of a party on that organization.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.70 Service of Application and Evidence Supporting Application ~~(Repealed)~~
EMERGENCY

~~Each applicant shall serve a complete copy of its application and all supporting written testimony and exhibits on all persons who had applied for an organizational license the previous year by 5:00 p.m. on August 1 (or, if August 1 is not a business day, on the next business day) and on any other party who has filed an application in the current year. The Board shall notify all parties of the name and address of any other party filing an application for an organization license and all applicants shall serve a copy of the application and all supporting written testimony and exhibits on all such additional parties by messenger or overnight delivery.~~

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(Source: Repealed by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.75 Discovery**EMERGENCY**

- a) The Board shall notify all parties of the name and address of all applicants for an organization license.
- b) Each applicant shall serve on all other applicants of the same breed and the Board, on such date and time as ordered by the Board:
 - 1) The name and address of any witness who may be reasonably expected to testify on behalf of the party, together with a brief summary of the subject matter of each witness' anticipated testimony; and
 - 2) All documents, reports, summaries, tables, comparisons (i.e., attendance figures, handle comparisons, purse earnings and purse distributions), and all other materials, including videotape, DVD, film, and/or computer presentations the party intends to introduce into evidence at the hearing. The party's burden of production includes those documents the applicant reasonably expects to introduce into evidence.
- c) Parties shall be notified, either before the hearing or by reference in preliminary reports or otherwise, of any material to be noticed and/or relied upon by the Board, including any staff memoranda, staff reports, charts or data.
- d) Witnesses not identified and documents and other materials that are not timely produced may be excluded from the hearing as specified in subsection (b).
- e) No oral or written discovery beyond that specified in this Section shall be permitted.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.80 Pre-Hearing Conference**EMERGENCY**

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- a) Upon written notice by the Board or its duly appointed hearing officer, the parties may be directed to appear at a specified date, time and place for a conference for the purpose of considering an agreement among applicants as to the award of racing dates (see 230 ILCS 5/21(b)).
- b) If an agreed dates schedule is not reached, the Board or the hearing officer shall enter an order addressing preliminary matters, including but not limited to:
- 1) stipulation to matters not in dispute;
 - 2) procedural matters at the hearing;
 - 3) order of witnesses;
 - 4) deadline for mutual exchange among parties of prepared testimony or exhibits;
 - 5) scheduling of pre-hearing motions; and
 - 6) any other matters to facilitate expeditious conduct of the Licensing Hearing and disposition of the proceeding.

~~A pre-hearing conference shall be conducted on August 24 (or, if August 24 is not a business day, on the next business day thereafter), during which conference the parties and Hearing Officer shall address preliminary matters including discussing stipulations required under Section 204.110 of Title 11, Subtitle B, Chapter I, of the Illinois Administrative Code, the likely number of witnesses or exhibits preliminarily anticipated by any party, and any other matters designed to facilitate expeditious conduct of the Licensing Hearing. The pre-hearing conference may be adjourned and continued to a date selected by the Hearing Officer between the date applications must be filed and the date the Licensing Hearing shall commence. At the adjourned pre-hearing conference, the parties and the Hearing Officer may address objections to evidence filed with applications and also may address further stipulations intended to simplify evidentiary matters.~~

- c) The Board or hearing officer shall rule on pre-hearing motions in writing prior to the Licensing Hearing.
- d) The pre-hearing conference may be adjourned and continued to a date selected by the Board or the hearing officer prior to the Licensing Hearing.

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- e) Pre-hearing conferences under this Section shall be open to the public, notice ~~thereof~~ shall be given in the same manner as notice is given of meetings of the Board, and a transcript shall be kept ~~and, which transcript~~ shall become a part of the record in the proceeding.
- f) Under no circumstance shall offers of settlement, offers of agreement, concessions or statements made at the pre-hearing conference be admissible in evidence for any purpose at the Licensing Hearing.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.85 Hearing Officer
EMERGENCY

The Chairman of the Board may preside over any hearings or pre-hearing conference in accordance with this Part; or the Chairman may appoint a Board member or an Illinois licensed attorney as a hearing officer to conduct any hearings or pre-hearing conference in accordance with this Part. The hearing officer shall perform such duties as provided in 230 ILCS 5/14(a) and 14a.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.90 Filing ~~and Service~~ of ~~Responsive Evidence &~~ Motions
EMERGENCY

Any party filing a motion shall serve 15 copies of the motion on the Board and shall also serve a copy on each of the other parties. Service shall be by messenger, overnight delivery, facsimile or in person. Applicants applying for organization licenses at the same race track may file motions to consolidate parties for the purpose of consolidating evidence and testimony. The deadline for filing motions shall be determined by the Board at the pre-hearing conference. ~~On or before 5:00 p.m. of September 14 (or, if September 14 is not a business day, the next business day thereafter), any party may file with the Board fifteen copies (15), and simultaneously serve on all other parties to the license hearing one copy of prefiled written testimony and exhibits responding to the application, supporting evidence, or exhibits filed by any other party. The responsive testimony and exhibits shall be in the same form as required for evidentiary materials submitted in support of an application. Any motion to strike or limit any prefiled supporting testimony or exhibits shall be filed with the Board and served by messenger or overnight delivery on all other parties on this same date.~~

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(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.95 Evidence**EMERGENCY**

- a) Evidence shall be received by way of direct and cross-examination of witnesses and introduction of documentary evidence subject to the rules of evidence.
- b) The Chairman of the Board, or a Board member appointed by the Chairman of the Board, who is a licensed Illinois attorney, shall decide all evidentiary objections and questions of evidence raised at the Licensing Hearing, subject to de novo review by the Board. The Chairman or Board member appointed to rule on matters of evidence may seek the advice of the other members of the Board on evidentiary issues at his/her discretion. Any evidence ruled inadmissible may be submitted as an offer of proof.
- c) The rules of evidence shall be applied liberally. Any relevant evidence may be admitted and shall be sufficient in itself to support a finding if it is the sort of evidence on which reasonably prudent persons are accustomed to relying in the conduct of serious affairs. The Board or its appointed hearing officer shall exclude immaterial, irrelevant and repetitious evidence.
- d) The rules of evidence shall apply only to the parties. The Board may rely on technical and/or scientific facts within the Board's specialized knowledge. Nothing in this subsection shall be deemed to diminish the ability of the Board to enter documentary or testimonial evidence in its own discretion.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.100 Licensing Hearing**EMERGENCY**

- a) The ~~Licensing License~~ Hearing shall commence on the date fixed by the Board during the last 10 days of September of the year prior to the applicable racing dates. ~~September 7 (or, if September 7 is not a business day, the next business day thereafter).~~

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- b) The Board shall conduct, and the Chairman or the duly appointed hearing officer shall preside over, the Licensing Hearing. Any testimony shall be given under oath or affirmation.
- c) Cases shall be presented by category of breed. Applicants for one breed may proceed in alphabetical order, or reverse alphabetical order, as determined by the Chairman.
- d) Board members may question any applicant or witness during the course of or following testimony.
- e) Each party may conduct adverse examination of witnesses according to the rules of evidence applicable for cross- and redirect examination in the Circuit Court of Cook County, Illinois for non-jury trials and as provided in Section 10-40 of the IAPA [5 ILCS 100/10-40].
- ~~b) The members of the Racing Board or hearing officer presiding over the Licensing Hearing shall decide all evidentiary objections raised at the Licensing Hearing, subject to de novo review by the Board of the ruling of any hearing officer the Board may appoint, at the request of any party. Any evidence ruled inadmissible may be submitted as an offer of proof.~~
- ~~e) Each party shall, in alphabetical order, offer into evidence the prefiled written testimony and exhibits of each witness whose testimony it has filed in support of its application. Each such witness will then be subject to oral, cross and redirect examination by all parties according to the rules of evidence applicable for cross and redirect examination in the Circuit Court of Cook County, Illinois for non-jury trials and as provided in Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40]. Thereafter, each party shall, in the same order, offer into evidence the prefiled written testimony and exhibits of each witness whose written testimony and exhibits it has filed in response to another party's application or supporting evidence. Each such witness will then be subject to oral, cross and redirect examination by all parties according to the rules of evidence applicable for cross and redirect examination in the Circuit Court of Cook County, Illinois for non-jury trials and as provided in Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40].~~
- ~~f) The ChairmanBoard or hearing officer may limit the time allotted to parties a participant for both direct and cross-examination, if the ~~cross~~ examination of witnesses would unduly obstruct the award of an organization license within the~~

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time allotted in Section 20(e) of the Act [230 ILCS 5/20(e)].

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.110 Disqualification of Hearing Officer**EMERGENCY**

- (a) Whenever any party believes a ~~hearing officer~~Hearing Officer or any Racing Board ~~member~~Member should be disqualified, for bias, prejudice, conflict of interest or any other reason, from conducting, or continuing to conduct, a Licensing Hearing, ~~that~~such party may file with the Racing Board a motion to disqualify the ~~hearing officer~~Hearing Officer or Board ~~member~~Member, setting forth the alleged grounds for disqualification. A party shall file such a motion promptly, upon learning of any grounds for disqualification. ~~The motion shall be filed as provided in Section 205.90. A party filing such a motion shall also serve a copy of such motion on the Hearing Officer and the Board, by messenger or overnight delivery.~~ The Board shall enter a written ruling on ~~the~~such motion within ~~three~~(3) days ~~after~~of the date on which ~~the~~such motion is filed.
- (b) A Hearing Officer ~~or Board member~~ may recuse himself or herself from presiding at a Licensing Hearing.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.120 Ex Parte Communications**EMERGENCY**

- a) ~~After service of the notice of the Licensing Hearing on the parties, and until such time a formal written Dates Order is executed by the Board, any communication, directly or indirectly, in connection with any matter regarding the award of racing dates, between any Board member, employee or hearing officer and any party or representative of any party to the Licensing Hearing shall be considered ex parte pursuant to Section 10-60(a) of the IAPA.~~
- b) Pursuant to Section 20(e-10) of the Act [230 ILCS 5/20(e-10)], ex parte communication shall be allowed provided that such communications are in the best interest of racing ~~(e.g., the matters enumerated in subsection (e-5)(1) through (8), or suggestions or comments from knowledgeable persons who are not~~

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~~licensees or applicants~~). The phrase "best interest of racing" includes, among other factors, the quality and integrity of racing, public interest, State revenue and the availability of wagering opportunities. ~~Such communications shall be made part of the record of the licensing hearing.~~

- c) Pursuant to Section 10-60(c) of the IAPA, any ex parte communication received by any Board employee, member or hearing officer shall be made a part of the record of the Licensing Hearing, including all written communications, all written responses to the communications and a memorandum stating the substance of all oral communications and all responses made, and the identity of each person from whom the ex parte communication was received.
- d) Communications between Board employees and the applicants pursuant to Section 21(a) of the Horse Racing Act [230 ILCS 5/21(a)] regarding the correction of deficiencies of the application within the prescribed 21 day time period after submission of the application shall not be considered ex parte communication under this Section.
- e) Communications regarding matters of procedure and practice, such as format of applications, number of copies required, manner of service and status of proceedings are not considered ex parte communication under this Section.
- f) Ex parte communications pursuant to this Section shall not be exempt from the provisions of the Open Meetings Act [5 ILCS 120].
- a) ~~This rule expressly adopts the applicable provision of the IAPA, Section 10-60, regarding ex parte communications. Section 10-60 includes provisions that:~~
 - 1) ~~after notice of a hearing in a contested case such as the Licensing Hearing, agency heads, agency employees and hearing officers shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or the representative of any party, except upon notice and opportunity for all parties to participate;~~
 - 2) ~~a Board Member may, however, communicate with other members of the Board, and a Board Member or hearing officer may have the advice of one or more "personal assistants." To avoid any appearance of impropriety, however, the Board and the hearing officer shall utilize "personal assistants" who have no other involvement or participation in the~~

ILLINOIS RACING BOARD

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~~Licensing Hearing. For purposes of this Section, a "personal assistant" shall not be deemed to be subject to a disqualifying involvement or participation in the Licensing Hearing if the "personal assistant" has observed the proceedings or reviewed testimony or exhibits for the purpose of advising a Board Member or the hearing officer.~~

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.125 Record
EMERGENCY

- a) The transcript made in connection with the hearing shall constitute the official transcript.
- b) The record in an administrative hearing shall include:
 - 1) Applications, amended applications and exhibits;
 - 2) All notices, motions, briefs and rulings;
 - 3) Evidence received;
 - 4) A statement of matters officially noticed;
 - 5) Past annual reports;
 - 6) Offers of proof, objections and rulings;
 - 7) Official transcript; and
 - 8) Report of Findings of Fact by the hearing officer if the Licensing Hearing is conducted by a hearing officer.
- c) The complete record of the Licensing Hearing shall be submitted to the Board. If the decision of the Board is unanimous, the Chairman of the Board, or a member of the Board appointed by the Chairman, shall draft the final Dates Order. If the decision of the Board is split, the majority shall draft the Board's final Dates Order. The majority opinion shall be submitted to all Board members who voted with the minority, and the minority Board members may draft a minority opinion.

ILLINOIS RACING BOARD

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Any and all minority opinions shall be attached to the final Dates Order and made a part of the record. A formal written Dates Order shall be executed by the Board no later than October 15 of the year prior to the racing schedule.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

Section 205.140 Notice to and Acceptance by Applicants**EMERGENCY**

- a) The Board shall, within five days after the date its formal order is executed:
 - 1) Send each applicant a copy of that executed order awarding racing dates by certified mail, return receipt requested, addressed to the applicant at the address stated in its application;
 - 2) Issue letters of acceptance to successful applicants for racing dates no later than five days after the date of execution of its formal order. Each applicant shall submit signed acceptance letters to the Board by certified mail, return receipt requested, or by personal delivery at the central office of the Board. Applicants shall furnish signed acceptance letters, together with required fees, to the Board no later than 10 days after receipt of the Board's executed Dates Order~~dates order~~. Acceptance letters, mailed or delivered, shall be received at the central office of the Board on or before the expiration of the 10 day limit. Acceptance of dates pursuant to this Section shall not abridge an applicant's right to appeal.
- b) In the event an applicant does not submit a signed acceptance letter and/or the required fees in the manner and within the 10 day limit ~~as~~ stated in subsection (a)(2) of this Section, the Board may conduct an emergency hearing, as provided in Section 205.150, and may re-award racing dates previously awarded to the applicant. The Board may exercise its discretion not to re-award dates when to do so would not be in the best interest of the~~th~~ sport, industry and/or State of Illinois (instances include, but are not limited to, conflicting meets, failure to maximize State revenue, shortage of horses, inadequate facilities or officials, lack of character or financial fitness of the applicant and inadequate promotional budget).

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

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Section 205.150 Emergency Hearing to Re-award Dates**EMERGENCY**

- a) Pursuant to Section 20(f-5) of the Act [230 ILCS 5/20(f-5)], the Board may conduct an emergency hearing and may re-award dates if acceptance is not received from the applicant in the 10 days prescribed by the Act or a license to conduct a race meeting has been suspended or revoked.
- b) The Board shall serve notice to all interested parties of the date of the emergency hearing and dates for filing applications and supporting documentation for the racing dates in question.
- c) A re-award of racing dates shall be based on the criteria contained in Section 20(e-5) of the Act [230 ILCS 5/20(e-5)].
- d) The Illinois Administrative Procedure Act shall not apply to the conducting of an emergency hearing for the reallocation of racing dates pursuant to this Section.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 10425, effective July 1, 2005, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2005 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Pay Plan; 80 Ill. Admin. Code 310

1) Rulemaking:

A) Description: Projected amendments to the Department of Central Management Services' Pay Plan include the following revisions to the following sections:

In Section 310.280, Designated Rate, changes in salaries, the addition of new positions, and deletion of positions no longer utilized as approved by the Governor.

In Section 310.Appendix A, Negotiated Rates of Pay tables, changes because of bargaining unit agreements that are signed before January 1, 2006.

In various sections, changes to classifications either being established, revised, or removed with the approval of the Civil Service Commission.

In various sections, changes to the format of the Pay Plan to reduce duplicate information and provide easier access to information contained within the Pay Plan.

B) Statutory Authority: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Department of Central Management Services in writing during the First Notice Period of the Pay Plan amendments.

D) Date agency anticipates First Notice: Amendments to Section 310.280, Designated Rate, will be filed as the Governor approves changes throughout the year.

Peremptory amendments based on new memoranda of understanding or other bargaining unit agreements will be filed as negotiations are completed.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2005 REGULATORY AGENDA

Peremptory amendments based on new, revised, or abolished classifications represented by the bargaining units, and proposed amendments based on new, revised, or abolished classifications not represented by the bargaining units, will be filed as the classification actions are approved by the Civil Service Commission.

Amendments to sections to add clarity will be filed as the Governor approves changes.

E) Affect on small businesses, small municipalities or not for profit corporations: These amendments to the Pay Plan pertain only to state employees subject to the Personnel Code under the Governor. They do not set out guidelines that are to be followed by local or other jurisdictional bodies within the State.

F) Agency contact person for information:

Ms. Anne McElroy
Deputy Director
Bureau of Personnel
Department of Central Management Services
503 William G. Stratton Building
Springfield IL 62706
217/524-8773

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues regarding State employee salary rates and policies.

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a) Part (Heading and Code Citation): Certification; 23 Ill. Adm. Code 251) Rulemaking:

- A) Description: These rules will be revised to incorporate any additional streamlining that results from ISBE's comprehensive review of its rules, including potential changes to the process for accreditation and approval of preparation programs.
- B) Statutory Authority: 105 ILCS 5/Art. 21, 14C-8, and 2-3.6
- C) Scheduled meeting/hearing date: To be announced
- D) Date agency anticipates First Notice: October 7, 2005
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
- Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/ 782-5270
- G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Sex Equity; 23 Ill. Adm. Code 2001) Rulemaking:

- A) Description: This set of rules will be updated and amended to incorporate any revisions identified as part of ISBE's comprehensive review of its rules.
- B) Statutory Authority: 105 ILCS 5/2-3.6, 27-1, and 34-18
- C) Scheduled meeting/hearing date: To be announced

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- D) Date agency anticipates First Notice: December 30, 2005
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

- G) Related rulemakings and other pertinent information: None

- c) Part (Heading and Code Citation): Disadvantaged Students Funds Plan – Districts Between 1,000 and 50,000 ADA; 23 Ill. Adm. Code 201.

- 1) Rulemaking:

- A) Description: This set of rules will be amended to incorporate any revisions identified as part of ISBE's comprehensive review of its rules.
- B) Statutory Authority: 105 ILCS 5/18-8.05(H)(3)
- C) Scheduled meeting/hearing date: To be announced
- D) Date agency anticipates First Notice: December 2, 2005
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street

STATE BOARD OF EDUCATION

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Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Disadvantaged Students Funds Plan – Districts Over 50,000 ADA; 23 Ill. Adm. Code 202

1) Rulemaking:

A) Description: This set of rules will be updated in light of Section 18-8.05 of the School Code and to incorporate any revisions identified as part of ISBE's comprehensive review of its rules.

B) Statutory Authority: 105 ILCS 5/18-8.05(H)(4)

C) Scheduled meeting/hearing date: To be announced

D) Date agency anticipates First Notice: December 2, 2005

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Truants' Alternative and Optional Education Programs; 23 Ill. Adm. Code 205

1) Rulemaking:

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- A) Description: This set of rules will be amended to incorporate any revisions identified as part of ISBE's comprehensive review of its rules.
- B) Statutory Authority: 105 ILCS 5/2-3.66
- C) Scheduled meeting/hearing date: To be announced
- D) Date agency anticipates First Notice: October 7, 2005
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
- Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270
- G) Related rulemakings and other pertinent information: None
- f) Part (Heading and Code Citation): Alternative Education Diplomas; 23 Ill. Adm. Code 215
- 1) Rulemaking:
- A) Description: This set of rules will be amended to incorporate any revisions identified as part of ISBE's comprehensive review of its rules.
- B) Statutory Authority: 105 ILCS 5/2-3.81
- C) Scheduled meeting/hearing date: To be announced
- D) Date agency anticipates First Notice: October 7, 2005
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

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F) Agency contact person for information:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information: Noneg) Part (Heading and Code Citation): Transitional Bilingual Education; 23 Ill. Adm. Code 2281) Rulemaking:

A) Description: This set of rules will be amended to require the use of a single assessment of English language proficiency statewide, as well as to incorporate any other revisions identified as part of ISBE's comprehensive review of its rules.

B) Statutory Authority: 105 ILCS 5/2-3.39

C) Scheduled meeting/hearing date: To be announced

D) Date agency anticipates First Notice: October 7, 2005

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information: None

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h) Part (Heading and Code Citation): Preschool Educational and Coordinated Model Preschool Educational Programs; 23 Ill. Adm. Code 235

1) Rulemaking:

A) Description: This set of rules will be amended to reflect 2005 legislative changes if signed into law, as well as to incorporate any other revisions identified as part of ISBE's comprehensive review of its rules.

B) Statutory Authority: 105 ILCS 5/2-3.71

C) Scheduled meeting/hearing date: To be announced

D) Date agency anticipates First Notice: December 2, 2005

E) Effect on small businesses, small municipalities, or not-for-profit corporations: Unknown at this time; some providers of early childhood programs are not-for-profit entities.

F) Agency contact person for information:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Vocational Education; 23 Ill. Adm. Code 254

1) Rulemaking:

A) Description: This set of rules will be comprehensively updated in light of relevant federal law and regulations.

B) Statutory Authority: 105 ILCS 435/2

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- C) Scheduled meeting/hearing date: To be announced
- D) Date agency anticipates First Notice: December 30, 2005
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

- G) Related rulemakings and other pertinent information: None

j) Part (Heading and Code Citation): Public University Laboratory Schools; 23 Ill. Adm. Code 452

1) Rulemaking:

- A) Description: This set of rules will be amended to incorporate any revisions identified as part of ISBE's comprehensive review of its rules.
- B) Statutory Authority: 105 ILCS 5/18-8.05(K)
- C) Scheduled meeting/hearing date: To be announced
- D) Date agency anticipates First Notice: November 4, 2005
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None.
- F) Agency contact person for information:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education

STATE BOARD OF EDUCATION

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100 North First Street
Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information: None

k) Part (Heading and Code Citation): Regional Offices of Education and Intermediate Services; 23 Ill. Adm. Code 525

1) Rulemaking:

A) Description: This set of rules will be amended to incorporate any revisions identified as part of ISBE's comprehensive review of its rules.

B) Statutory Authority: 105 ILCS 5/2-3.62, 3A-16, and 3A-17

C) Scheduled meeting/hearing date: To be announced

D) Date agency anticipates First Notice: November 4, 2005

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

G) Related rulemakings and other pertinent information: None

ENVIRONMENTAL PROTECTION AGENCY

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- a) Part (Heading and Code Citation): Procedures for Collection of Asbestos Fees; 35 Ill. Adm. Code 269
- 1) Rulemaking:
- A) Description: The proposed new rule will set forth the procedures the Agency will use to collect asbestos fees under Section 9.13 of the Environmental Protection Act.
- B) Statutory Authority: Authorized by Section 9.13 of the Environmental Protection Act [415 ILCS 5/9.13]
- C) Scheduled meeting/hearings dates: None yet scheduled
- D) Date Agency anticipates First Notice: None yet scheduled
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that must file an original 10-day notice of intent to renovate or demolish pursuant to 40 CFR 61.145(b) (part of the federal asbestos National Emission Standard for Hazardous Air Pollutants or NESHAP), would be subject to the procedures to set forth in this new rule.
- F) Agency contact person for information:
- Charles E. Matoesian
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544
- G) Related Rulemaking and other pertinent information: None
- b) Part (Heading and Code Citation): Construction Permit Application Fees For Air Pollution Sources; 35 Ill. Adm. Code 250
- 1) Rulemaking:

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- A) Description: The proposed new rule will set forth the procedures the Agency will use to collect construction permit application fees for air pollution sources under Section 9.12 of the Environmental Protection Act.
- B)
- C) Statutory authority: Authorized by Section 9.12 of the Environmental Protection Act [415 ILCS 5/9.12].
- D) Scheduled meeting/hearings dates: None yet scheduled
- E) Date Agency anticipates First Notice: None yet scheduled
- F) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that submit construction permit applications that trigger the fee provisions would be subject to the procedures set forth in this new rule.
- G) Agency contact person for information:
- Gina Roccaforte
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544
- H) Related rulemaking and other pertinent information: None
- c) Part (Heading and Code Citation): Procedures For Collection Of Air Pollution Site Fees; 35 Ill. Adm. Code 251.
- 1) Rulemaking:
- A) Description: The proposed rule will modify the current rule to address recent amendments made to Section 9.6 of the Environmental Protection Act. In addition, the proposed rule will make miscellaneous changes.
- B) Statutory authority: Authorized by Section 9.6 of the Environmental Protection Act [415 ILCS 5/9.6]

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- C) Scheduled meeting/hearings dates: None yet scheduled
- D) Date Agency anticipates First Notice: None yet scheduled
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that must pay site fees would be subject to the modified applicability provisions.
- F) Agency contact person for information:
- Charles E. Matoesian
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544
- G) Related rulemaking and other pertinent information: None
- d) Part (Heading and Code Citation): Clean Air Act Permit Program Procedures; 35 Ill. Adm. Code 270
- 1) Rulemaking:
- A) Description: The proposed rule will modify the current rule to address recent amendments to the Clean Air Act Permit Program (CAAPP) fee schedule. In addition, the proposed rule will make miscellaneous changes.
- B) Statutory authority: Authorized by Section 39.5 of the Environmental Protection Act [415 ILCS 5/39.5]
- C) Scheduled meeting/hearings dates: None yet scheduled
- D) Date Agency anticipates First Notice: None yet scheduled
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit

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corporations that are subject to CAAPP fees would be subject to the proposed rule.

F) Agency contact person for information:

Charles Matoesian
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544

G) Related rulemaking and other pertinent information: Nonee) Parts (Headings and Code Citations): Illinois Environmental Protection Agency Public Water Supplies, Technical Policy Statements; 35 Ill. Adm. Code 651 through 6541) Rulemaking:

- A) Description: The amendments to these Agency rules will update definitions and explanations of administrative procedures and provide current information to owners, operators, and official custodians of public water supplies. More recent design and operational criteria will be incorporated to provide information necessary for the design, operation, and maintenance of public water supplies and to facilitate the permitting process. In addition, the amendments will exempt from restricted status certain public water supplies that exceed the combined radium standard, provided the supplies meet certain conditions.

The amendments to these Agency rules will also incorporate technical, financial, and managerial requirements for new public water supplies (PWS). The proposed amendments are required by the 1996 amendments to the federal Safe Drinking Water Act (SDWA). On May 22, 1998, the Illinois General Assembly passed SB 545 which, *inter alia*, amends Sections 15 and 18 of the Environmental Protection Act to require that new PWS have the technical, financial, and managerial capacity to meet federal and State drinking water regulations. The Governor signed this bill into law on August 14, 1998, as P.A. 90-0773.

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- B) Statutory authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/14 through 5/19.
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: July 2005
- E) Effect on small business, small municipalities or not-for-profit corporations: These amendments will generally benefit small businesses, small municipalities, and not-for-profit entities by clarifying the requirements for operations and permits. There may be some additional reporting requirements. These amendments may also affect new small businesses, new small municipalities, and not-for-profit corporations in Illinois to the extent the affected entities own or operate a "public water supply" as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544
- G) Related rulemakings and other pertinent information : The Agency is preparing a rulemaking proposal to establish the requirements that must be met by public water supplies that exceed the combined radium standard or the gross alpha particle activity standard, to avoid being placed on restrictive status.
- f) Part (Headings and Code Citations): Illinois Environmental Protection Agency Public Water Supplies, Permit Fees For Installing or Extending Water Main; 35 Ill. Adm. Code

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1) Rulemaking:

- A) Description: In June 2003, the Governor signed into law P.A. 93-0032, which established a new fee structure for installing and extending water mains. The amendments to this rule will formally incorporate the new fee. The collection of fees in the amendments reflect the increases mandated by the new law for construction permits, emergency construction permits, or as-built plans to install or extend water mains.
- B) Statutory authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/14 through 5/19]
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: July 2005
- E) Effect on small business, small municipalities or not-for-profit corporations: These amendments will affect small businesses, small municipalities, and not-for-profit entities to the extent that these entities design, operate, or maintain a public water supply, or engage in the permitting process. The Agency anticipates that the amendments will generally benefit these entities by clarifying the requirements for facility operations and permits. The amendments do not impose additional reporting requirements.
- F) Agency contact person for information:
- Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544
- G) Related rulemaking and other pertinent information: None

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- g) Part (Headings and Code Citations): Illinois Environmental Protection Agency Public Water Supplies, Procedures For Issuing Loans From The Public Water Supply Loan Program; 35 Ill. Adm. Code 662 and 663
- 1) Rulemaking:
- A) Description: The Agency has issued tax-exempt bonds to increase funding for the Public Water Supply Loan Program. The Agency will review Parts 662 and 663 to determine how these parts may be amended to accommodate future leveraging of the program.
- B) Statutory authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/14 through 5/19]
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: December 2005
- E) Effect on small business, small municipalities or not-for-profit corporations: These rules apply only to public entities, such as municipalities, sanitary districts, etc. The amendments will clarify the requirements of the Public Water Supply Loan Program that relate to the issuance of tax-exempt bonds.
- F) Agency contact person for information:
- Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544
- G) Related rulemaking and other pertinent information: None
- h) Part Heading and Code Citation: Procedures For Issuing Loans From The Water Pollution Control Revolving Loan Fund; 35 Ill. Adm. Code 365

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- 1) Rulemaking:
- A) Description: This rulemaking will amend the Agency's present Water Pollution Control Loans to update and make them consistent with current Federal guidance and the Agency's rules for the Public Water Supply Loan Program, 35 Ill. Adm. Code 663.
- B) Statutory authority: The amended rules implement Title IV-A: Water Pollution Control of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 5/19.8].
- C) Scheduled meeting/hearing date: No meetings or hearings are scheduled at this time.
- D) Date Agency anticipates First Notice: Fall 2005
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These rules apply only to public entities, such as municipalities, sanitary districts, etc. The amendments will simplify the procedures for obtaining loans from the wastewater treatment loan program.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
- G) Related rulemaking and other pertinent information: None
- i) Part (Heading and Code Citation): Procedures For Issuing Loans From The Water Pollution Control Revolving Loan Fund; 35 Ill. Adm. Code 366
- 1) Rulemaking:

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- A) Description: The Agency will propose amendments to revise procedures for the allocation of funds. Funds in the Water Pollution Control Revolving Fund are subject to an equal division between the service area of the Metropolitan Water Reclamation District of Greater Chicago and the area consisting of the rest of the State. Currently, new funds that are not allocated during the fiscal year are carried over and may be used only for projects in the particular geographical area for which the funds were initially allocated. These amendments would allow funds not obligated in a given fiscal year to be treated as new funds when carried over to the following fiscal year. As new funds, they would once again be subject to the equal division between the two major geographic areas for the purpose of developing an Intended Use Plan only. These amendments also specify at what point these funds lose their geographic identity when utilized for the funding of projects not included in the Intended Use Plan.
- B) Statutory Authority: The amended rules implement Title IV-A: Water Pollution Control of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 5/19.8].
- C) Scheduled meeting/hearing date: No meetings or hearings are scheduled at this time.
- D) Date Agency anticipates First Notice: December 2005
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These rules apply only to public entities, such as municipalities, sanitary districts, etc. The amendments will simplify the procedures for obtaining loans from the wastewater treatment loan program.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

ENVIRONMENTAL PROTECTION AGENCY

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- G) Related rulemaking and other pertinent information: None
- j) Part (Heading and Code Citation): Procedures For Issuing Loans From The Water Pollution Control Program for Non-Point Pollution Control Projects; New Part.
- 1) Rulemaking:
- A) Description: This rulemaking will create procedures for eligible local government units, other governmental entities, non-governmental entities or any combination thereof, to obtain loans from the Water Pollution Control Loan Program for projects to control non-point sources of pollution.
- B) Statutory Authority: The proposed rules implement Title IV-A: Water Pollution Control of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 5/19.8].
- C) Scheduled meeting/hearing date: No meetings or hearings are scheduled at this time.
- D) Date Agency anticipates First Notice: July 2005
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These rules will benefit these entities by creating procedures to enable these and other entities to obtain loans from the Water Pollution Control Loan Program for projects to control non-point sources of pollution.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
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Springfield, Illinois 62794-9276
217/782-5544

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- G) Related rulemaking and other pertinent information: None
- k) Part(s) (Headings and Code Citations): Procedures And Criteria For Reviewing Applications For Provisional Variances; 35 Ill. Adm. Code 180
- 1) Rulemaking:
- A) Description: The proposal will amend 35 Ill. Adm. Code 180 to reflect the amendments to Sections 35(b), 36, and 37 of the Environmental Protection Act. Amendments to Sections 35(b), 36, and 37 of the Act give authority to the Agency to grant provisional variances rather than the Pollution Control Board. The proposed amendments may also update the Part and correct typographical errors.
- B) Statutory authority: Implementing and authorized by Sections 35(b) of the Environmental Protection Act [415 ILCS 5/35(b)]
- C) Scheduled meeting/hearing dates: None yet scheduled
- D) Date agency anticipates First Notice: December 2005
- E) Effect on small business, small municipalities, or not-for-profit corporation: Any small businesses, small municipalities, or not-for-profit corporations that file a petition for a provisional variance pursuant to Section 35(b) of the Act will be affected by the proposed amendments.
- F) Agency contact person for information:
- Annet Godiksen
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
- G) Related rulemakings and other pertinent information: None

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l) Part (Heading and Code Citation): Amendment to Procedure for the Certification of Operators of Wastewater Treatment Works; 35 Ill. Adm. Code 380

1) Rulemaking:

A) Description: Proposed amendments will modify the groupings of industrial wastewater treatment works and qualifications needed by Wastewater Operators.

B) Statutory authority: Implementing and authorized by Section 11 and 27 of the Environmental Protection Act [415 ILCS 5/11 and 5/27]

C) Schedule meeting/hearing date: No meetings or hearings are scheduled at this time.

D) Date agency anticipates First Notice: Fall 2005

E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations operating wastewater treatment works may be affected by the proposed amendments.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Stefanie Diers
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

G) Related rulemakings and other pertinent information: None

m) Part (Heading and Code Citation): Petitions for exemptions from mercury and mercury-added products prohibitions; Part number not yet assigned.

1) Rulemaking:

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- A) Description: Pursuant to Section 22.23b(c) of the Environmental Protection Act, the Agency plans to propose rules for the processing of petitions for exemptions from the mercury and mercury-added products prohibitions of Section 22.23b of the Act.
- B) Statutory authority: Authorized by Section 22.23b(c) of the Environmental Protection Act [415 ILCS 5/22.23b(c)]
- C) Scheduled meeting/hearings dates: None scheduled
- D) Date Agency anticipates First Notice: Late summer or early fall of 2005
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small business, small municipality, or not-for-profit corporation that manufactures a mercury switch or mercury relay, or a scientific instrument or piece of instructional equipment containing mercury added during its manufacture, and that petitions the Agency for an exemption from the provisions of Section 22.23b of the Act will be subject to the proposed rules.
- F) Agency contact person for information:
- M. Kyle Rominger
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544
- G) Related Rulemaking and other pertinent information: None
- n) Part (Heading and Code Citation): Procedures for the Agency's expedited review of RCRA corrective action plans and reports
- 1) Rulemaking:
- A) Description: The proposed new rule will set forth the procedures the Agency will use to perform an expedited review of RCRA corrective action plans and reports.

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- B) Statutory Authority: Authorized by Section 22.3a of the Environmental Protection Act [415 ILCS 5/22.3a]
- C) Scheduled meeting/hearings dates: None yet scheduled
- D) Date Agency anticipates First Notice: None yet scheduled
- E) Effect on small business, small municipalities or not-for-profit corporations: None known
- F) Agency contact person for information:
- Kim Geving
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544
- G) Related Rulemaking and other pertinent information: None
- o) Part (Heading and Code Citation): Environmental Laboratory Certification Fee Rules; 35 Ill. Adm. Code 185
- 1) Rulemaking:
- A) Description: This rulemaking will set forth the procedures the Agency will use to determine environmental laboratory assessment under 17.8 of the Environmental Protection Act.
- B) Statutory authority: Implementing and authorized by Section 17.8 of the Environmental Protection Act [415 ILCS 5/17.8]
- C) Schedule meeting/hearing date: No meetings or hearings are scheduled at this time.
- D) Date agency anticipates First Notice: Fall 2005

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- E) Effect on small business, small municipalities or not-for-profit corporations: Any small business, small municipality, or not-for-profit corporation that requests certification for its laboratories.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Stefanie Diers
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
- G) Related rulemakings and other pertinent information: None
- p) Part (Heading and Code Citation): Annual Testing Fees for Analytical Services; 35 Ill. Adm. Code 691
- 1) Rulemaking:
- A) Description: This rulemaking will update a citation in Section 691.102.
- B) Statutory authority: Implementing and authorized by Section 17.7 of the Environmental Protection Act [415 ILCS 5/17.7]
- C) Schedule meeting/hearing date: No meetings or hearings are scheduled at this time.
- D) Date agency anticipates First Notice: Fall 2005
- E) Effect on small business, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Stefanie Diers
Division of Legal Counsel

ENVIRONMENTAL PROTECTION AGENCY

JULY 2005 REGULATORY AGENDA

Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

- G) Related rulemakings and other pertinent information: None
- q) Part (Heading and Code Citation): Accreditation of Environmental Laboratories; 35 Ill. Adm. Code 186
- 1) Rulemaking:
- A) Description: This rulemaking will update Incorporations by Reference found in Section 186.115.
- B) Statutory Authority: Implementing and authorized by Section 4(n) and (o) of the Environmental Protection Act [415 ILCS 5/4(n) and (o)]
- C) Schedule meeting/hearing date: No meetings or hearings are scheduled at this time.
- D) Date agency anticipates First Notice: Fall 2005
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small business, small municipality, or not-for-profit corporation that requests accreditation for its laboratories.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Stefanie Diers
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
- G) Related rulemakings and other pertinent information: None

ENVIRONMENTAL PROTECTION AGENCY

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- r) Part (Heading and Code Citation): Alternative Fuels Program; 35 Ill. Adm. Code 275
- 1) Rulemaking:
- A) Description: The proposed amendments will expand the renewable fuels grants and rebate program to allow for a rebate for use of B20 (20% biodiesel). It would also clean-up the rule.
- B) Statutory authority: Authorized by Sections 15 and 30 of the Alternate Fuels Act [415 ILCS 120/15 and 120/30]
- C) Scheduled meeting/hearings dates: None yet scheduled
- D) Date Agency anticipates First Notice: None yet scheduled
- E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that use or may potentially use B20 as fuel.
- F) Agency contact person for information:
- Charles E. Matoesian
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544
- G) Related Rulemaking and other pertinent information: None

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- a) Part(s) (Heading and Code Citation): Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities, 59 Ill. Adm. Code 50
- 1) Rulemaking:
- A) Description: This Rule will be revised to reflect changes in the definition section of the rule, the reporting requirements of suspected abuse or neglect, and the requirements of reporting serious injury, recipient on recipient injuries and possibly death.
- B) Statutory Authority: Implementing and authorized by Sections 6.2 and 10 of the Abused and Neglected Long Term Care Facilities Reporting Act [210 ILCS 30/6.2]. SB 849
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 12/31/05
- E) Effect small business, small municipalities or not for profit corporations:
Yes, this proposed rulemaking will affect small business.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: SB 849, mentioned in the statutory authority, passed the General Assembly and is currently pending the Governor's approval.
- b) Part(s) (Heading and Code Citation): Office of Inspector General Adults with Disabilities Abuse Project, 59 Ill. Adm. Code 51
- 1) Rulemaking: Amendment

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- A) Description: The proposed amendments will reflect changes with regard to seeking temporary substitute guardianship when there is an allegation of abuse by a guardian. A new section to this rule will be necessary to reflect changes in the release of financial records to OIG for suspected victims of financial exploitation.
- B) Statutory Authority: Implementing and authorized by the Abuse of Adults with Disabilities Intervention Act [20 ILCS 2435]. HB 1301, HB 1511, HB 2341
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 12/31/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: The three house bills mentioned in the statutory authority have been passed by the General Assembly and are currently pending the Governor's approval.
- c) Part(s) (Heading and Code Citation): Grants, 59 Ill. Adm. Code 103
- 1) Rulemaking: Amendment
- A) Description: This rule will be reviewed and revised to reflect changes necessary for the fee-for-services payment system.

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- B) Statutory Authority: Implementing Sections 15, 34 and 34.1 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15, 34 and 34.1] and the Community Services Act [405 ILCS 30] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 12/31/05
- E) Effect small business, small municipalities or not for profit corporations: This rulemaking will affect small business. Grants are one mechanism by which the Department pays for community mental health providers.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citation): Treatment and Habilitation Services, 59 Ill. Adm. Code 112
- 1) Rulemaking: Amendment
- A) Description: The proposed amendment would detail the process for seeking to conduct research with patients who are unfit to stand trial or whom are not guilty by reason of insanity and the conduct of the institutional review board.
- B) Statutory Authority: Implementing Sections 1-110.5, 1-121.5, 2-102, 2-107.1, 2-107.2, 2-110, 2-110.1, 2-200, 3-207, 3-405, 3-903, 3-910, 4-209,

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4-312, 4-704 and 4-709, of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-110.5, 1-121.5, 2-102, 2-107.1, 2-107.2, 2-110, 2-110.1, 2-200, 3-207, 3-405, 3-903, 3-910, 4-209, 4-312, 4-704, and 4-709] and Sections 5.1 and 7 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5.1 and 7] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 12/31/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- e) Part(s) (Heading and Code Citation): Recipient Discharge/Linkage/Aftercare, 59 Ill. Adm. Code 125
- 1) Rulemaking: Amendment
- A) Description: Implement changes from P.A. 93-636, update rule to current administrative structure.
- B) Statutory Authority: Implementing and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Sections 5, 15, 15.1, 15a, 15b and 16 of the Mental Health and

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Developmental Disabilities Administrative Act [20 ILCS 1705/5, 15, 15.1, 15a, 15b and 16]. P.A. 93-636.

- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
 - D) Date agency anticipates First Notice: 12/31/05
 - E) Effect small business, small municipalities or not for profit corporations: Yes, this requires the Department to create certain standards that affect nursing homes where the Department discharges people. Those nursing homes may qualify as a small business.
 - F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
 - G) Related rulemakings and other pertinent information: None
- f) Part(s) (Heading and Code Citation): Sexually Violent Persons, 59 Ill. Adm. Code 299
- 1) Rulemaking: Amendment
 - A) Description: Various changes to reflect changes in treatment, administrative structure and changes concerning grievances, and conditional release.
 - B) Statutory Authority: Implementing and authorized by the Sexually Violent Persons Commitment Act [725 ILCS 20].
 - C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

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- D) Date agency anticipates First Notice: 12/31/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- g) Part(s) (Heading and Code Citation): Award and Monitoring of Funds, 77 Ill. Adm. Code 2030
- 1) Rulemaking: Repealer
- A) Description: Pertinent sections of this rule would be amended and incorporated into Part 2060. Most sections of this rule are no longer applicable.
- B) Statutory Authority: Authorized by the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/30/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief

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Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772

- G) Related rulemakings and other pertinent information: None
- h) Part(s) (Heading and Code Citation): Alcoholism and Substance Abuse Treatment and Intervention Licenses, 77 Ill. Adm. Code 2060
- 1) Rulemaking: Amendment
- A) Description: A review will be started this summer to ensure that 2060 reflects current clinical best practice. We are also interested in incorporating new sections related to criminal justice clients and funding (and thus, repealing Part 2030).
- B) Statutory Authority: Authorized by the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/30/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None

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- i) Part(s) (Heading and Code Citation): Subacute Alcoholism And Substance Abuse Treatment Services, 77 Ill. Adm. Code 2090
- 1) Rulemaking: Amendment
- A) Description: Due to changes in Part 2060, we may need to change cross-references in this rule.
- B) Statutory Authority: Authorized by the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/30/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- j) Part(s) (Heading and Code Citation): General Administrative Provisions, 89 Ill. Adm. Code 10
- 1) Rulemaking: Amendment
- A) Description: Section 10.410, Application for Assistance, will be revised to specify that an electronic signature technique may serve as a signature with respect to this provision.

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- B) Statutory Authority: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on this rule during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 09/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemaking and other pertinent information: Amendments will be proposed to 89 Ill. Adm. Code 121 implementing the Food Stamp Outreach and Enrollment Demonstration Project.
- k) Part(s) (Heading and Code Citation): Child Care, 89 Ill. Adm. Code 50
- 1) Rulemaking: Emergency and Amendments
- A) Description: The income eligibility guidelines for child care will be increased to 50% of the 2006 State Median Income for each family size.
- B) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13] and P.A. 93-0361.
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be

DEPARTMENT OF HUMAN SERVICES

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held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

- D) Date agency anticipates First Notice: 7/01/05
 - E) Effect small business, small municipalities or not for profit corporations:
Yes, this rulemaking may effect child care providers.
 - F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
 - G) Related rulemakings and other pertinent information: None
- l) Part(s) (Heading and Code Citation): Temporary Assistance for Needy Families, 89 Ill. Adm. Code 112
- 1) Rulemaking: Repealer
 - A) Description: Repeal of 112.84, the Employment Retention and Advancement Project, because the Project has ended.
 - B) 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].
 - C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on this repealer during the First Notice Period. Hearing will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
 - D) Date agency anticipates First Notice: 7/01/05
 - E) Effect small business, small municipalities or not for profit corporations:
None
 - F) Agency contact person for information:

DEPARTMENT OF HUMAN SERVICES

JULY 2005 REGULATORY AGENDA

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

- G) Related rulemakings and other pertinent information: None
- m) Part(s) (Heading and Code Citation): Food Stamps, 89 Ill. Adm. Code 121
- 1) Rulemaking: Peremptory Amendment
- A) Description: The amount of the maximum excess shelter deduction is adjusted annually for households not having a qualifying member.
- B) Statutory Authority: Implementing Section 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] and 7 CFR 273.
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on this rule during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 10/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF HUMAN SERVICES

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- n) Part(s) (Heading and Code Citation): Food Stamps, 89 Ill. Adm. Code 121
- 1) Rulemaking: Peremptory Amendments
- A) Description: The Gross and Net Income Eligibility Standards and the Food Stamp Benefit Amounts are annually adjusted.
- B) Statutory Authority: Implementing Section 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] and 7 CFR 273.
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 10/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- o) Part(s) (Heading and Code Citation): Food Stamps, 89 Ill. Adm. Code 121
- 1) Rulemaking: Emergency Amendment
- A) Description: Increase in the Utility Standards-Air Conditioning/Heating Standard, Limited Utility Standard, Single Utility Standard and the Telephone Standard, if the annual review determines an increase is needed.

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- B) Statutory Authority: Implementing Section 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] and 7 CFR 273.
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- p) Part(s) (Heading and Code Citation): Food Stamps, 89 Ill. Adm. Code 121
- 1) Rulemaking: Amendments
- A) Description: The Food Stamp Outreach and Enrollment Demonstration Project will be implemented. In designated project areas, households not participating in the food stamp program will be offered the opportunity to apply for food stamps at a local food pantry. An abbreviated food stamp application will be forwarded electronically to the Department. An automated system will determine eligibility, authorize food stamp benefits, and pass information about eligibility back to the food pantry worker. The pantry worker will verbally inform the household of their eligibility for food stamps and where to reapply for continued benefits.

DEPARTMENT OF HUMAN SERVICES

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- B) 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/Arts. 12-4.4 through 12-4.6 and 12-13].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 9/01/05
- E) Effect small business, small municipalities or not for profit corporations: This change will affect only the not-for-profit food pantries participating in the project.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: 89 Ill. Adm. Code 121.1, Application for Assistance, will be revised to specify that an electronic signature technique may serve as a signature with respect to this provision.
- q) Part(s) (Heading and Code Citation): Food Stamps, 89 Ill. Adm. Code 121
- 1) Rulemaking: Amendment
- A) Description: Section 121.1, Application for Assistance, will be revised to specify that an electronic signature technique may serve as a signature with respect to this provision.
- B) 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/Arts. 12-4.4 through 12-4.6 and 12-13].

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- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 9/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: Amendments will be proposed to 89 Ill. Adm. Code 121 implementing the Food Stamp Outreach and Enrollment Demonstration Project.
- r) Part(s) (Heading and Code Citation): Customer Financial Participation, 89 Ill. Adm. Code 562
- 1) Rulemaking: Amendment
- A) Description: Section 562.20, Definitions may require an amendment if changes are made in computing the Standard Budget Allowance. Changes will also be necessary for the Customer Participation definition. Section 562.30 and 562.40 are also being reviewed and revised.
- B) Statutory Authority: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

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- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: As with the Order of Selection rulemaking, 89 Ill. Adm. Code 553, the Division is looking at the most cost efficient manner in which to expend its limited resources.
- s) Part(s) (Heading and Code Citation): Comparable Benefits, 89 Ill. Adm. Code 567
- 1) Rulemaking: Amendment
- A) Description: As changes are made to Customer Financial Participation, 89 Ill. Adm. Code 562, section 567.30 will also need to be revised.
- B) Statutory Authority: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)], 29 USC 721(a)(8), and 34 CFR 361.47(b).
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:

DEPARTMENT OF HUMAN SERVICES

JULY 2005 REGULATORY AGENDA

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

- G) Related rulemakings and other pertinent information: As with the Order of Selection rulemaking, 89 Ill. Adm. Code 553, the Division is looking at the most cost efficient manner in which to expend its limited resources.
- t) Part(s) (Heading and Code Citation): Services, 89 Ill. Adm. Code 590
- 1) Rulemaking: Amendment
- A) Description: The Division wants to add a Subpart to outline rules for Supported Employment Services.
- B) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
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(217) 785-9772

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G) Related rulemakings and other pertinent information: None

u) Part(s) (Heading and Code Citation): Program Description, 89 Ill. Adm. Code 676

1) Rulemaking: Amendment

A) Description: Changes will be made to the definitions for Assistive Equipment and Environmental Modification, based on recommendations of CMS (federal) and DPA's audit findings

B) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 11/01/05

E) Effect small business, small municipalities or not for profit corporations:
None

F) Agency contact person for information:
Tracie Drew, Bureau Chief
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Springfield, Illinois 62762
(217) 785-9772

G) Related rulemakings and other pertinent information: None

v) Part(s) (Heading and Code Citation): Customer Rights and Responsibilities, 89 Ill. Adm. Code 677

1) Rulemaking: Amendment

A) Description: The Home Services Program is reviewing all of its rules for streamlining/clarification purposes.

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- B) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- w) Part(s) (Heading and Code Citation): Determination of Need (DON) and Resulting Service Cost Maximums (SCMs), 89 Ill. Adm. Code 679
- 1) Rulemaking: Amendment
- A) Description: The Home Services Program is reviewing all of the HSP rules for streamlining/clarification purposes.
- B) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

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- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- x) Part(s) (Heading and Code Citation): Prescreening, 89 Ill. Adm. Code 681
- 1) Rulemaking: Amendment
- A) Description: The Home Services Program is reviewing all of the HSP rules for streamlining/clarification purposes.
- B) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East

DEPARTMENT OF HUMAN SERVICES

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Springfield, Illinois 62762
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G) Related rulemakings and other pertinent information: None

y) Part(s) (Heading and Code Citation): Eligibility, 89 Ill. Adm. Code 682

1) Rulemaking: Amendment

A) Description: The Home Services Program is reviewing all of the HSP rules for streamlining/clarification purposes. If House Bill 438 is signed into law, HSP will also submit language to raise the asset limit from \$10,000 to \$12,500 to be consistent with the Department on Aging's asset limit.

B) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 11/01/05

E) Effect small business, small municipalities or not for profit corporations:
None

F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772

G) Related rulemakings and other pertinent information: None

z) Part(s) (Heading and Code Citation): Service Planning and Provision, 89 Ill. Adm. Code 684

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- 1) Rulemaking: Amendment
 - A) Description: The Home Services Program is reviewing all of the HSP rules for streamlining/clarification purposes.
 - B) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
 - C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
 - D) Date agency anticipates First Notice: 11/01/05
 - E) Effect small business, small municipalities or not for profit corporations: None
 - F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
 - G) Related rulemakings and other pertinent information: None
- aa) Part(s) (Heading and Code Citation): Provider Requirements, Type Services, and Rates of Payments, 89 Ill. Adm. Code 686
 - 1) Rulemaking: Amendment
 - A) Description: Revise existing language concerning environmental modifications and assistive devices and add new language to this section.
 - B) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

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- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: New language regarding the bidding procedures will be in line with language for the vocational rehabilitation program rules.
- bb) Part(s) (Heading and Code Citation): Illinois Long-Term Care Partnership Program, 89 Ill. Adm. Code 688.
- 1) Rulemaking: Amendment
- A) Description: The Home Services Program is reviewing all of the HSP rules for streamlining/clarification purposes.
- B) Statutory Authority: Partnership for Long-Term Care Act [320 ILCS 35] and Section 3(g) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(g)].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05

DEPARTMENT OF HUMAN SERVICES

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- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- cc) Part(s) (Heading and Code Citation): Role of Residential Educational Facilities Operated By The Department of Human Services, 89 Ill. Adm. Code 750.
- 1) Rulemaking: Amendment
- A) Description: This rulemaking will add language regarding the role of the advisory boards for the residential schools.
- B) Statutory Authority: Implementing and authorized by Sections 3(b), (f) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(b), (f), and (k)].
- C) Schedule Meeting/Hearing Date: The First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East

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G) Related rulemakings and other pertinent information: None

dd) Part(s) (Heading and Code Citation): Definition of Terms, 89 Ill. Adm. Code 751

1) Rulemaking: Amendment

A) Description: This rulemaking may require changes based on new Individuals with Disabilities Education Act regulations.

B) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 11/01/05

E) Effect small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772

G) Related rulemakings and other pertinent information: None

ee) Part(s) (Heading and Code Citation): Admission Procedures, 89 Ill. Adm. Code 755

1) Rulemaking: Amendment

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- A) Description: This rulemaking may require changes based on new Individuals with Disabilities Education Act regulations.
- B) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- ff) Part(s) (Heading and Code Citation): Special Education Program and Services, 89 Ill. Adm. Code 765
- 1) Rulemaking: Amendment
- A) Description: This rulemaking may require changes based on new Individuals with Disabilities Education Act regulations.
- B) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].

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- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- gg) Part(s) (Heading and Code Citation): Identification, Evaluation, and Placement of Students, 89 Ill. Adm. Code 795
- 1) Rulemaking: Amendment
- A) Description: This rulemaking may require changes based on new Individuals with Disabilities Education Act regulations.
- B) Statutory Authority: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:

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None

F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772

G) Related rulemakings and other pertinent information: None

hh) Part(s) (Heading and Code Citation): Special Transportation, 89 Ill. Adm. Code 815

1) Rulemaking: Amendment

A) Description: This rulemaking may require changes based on new Individuals with Disabilities Education Act regulations.

B) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 11/01/05

E) Effect small business, small municipalities or not for profit corporations:
None

F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
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- G) Related rulemakings and other pertinent information: None
- ii) Part(s) (Heading and Code Citation): Rules of Conduct, Discipline, Suspension and Discharge Procedures, 89 Ill. Adm. Code 827
- 1) Rulemaking: Amendment
- A) Description: This rulemaking may require changes based on new Individuals with Disabilities Education Act regulations.
- B) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- jj) Part(s) (Heading and Code Citation): Impartial Due Process Hearing, 89 Ill. Adm. Code 828
- 1) Rulemaking: Amendment

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- A) Description: This rulemaking may require changes based on new Individuals with Disabilities Education Act regulations.
- B) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 11/01/05
- E) Effect small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None

kk) Part(s) (Heading and Code Citation): Sex Equity, 89 Ill. Adm. Code 829

1) Rulemaking: Amendment

- A) Description: This rulemaking may require changes based on new Individuals with Disabilities Education Act regulations.
- B) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be

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held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 11/01/05

E) Effect small business, small municipalities or not for profit corporations:
None

F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772

G) Related rulemakings and other pertinent information: None

II) Part(s) (Heading and Code Citation): Non-Academic Programs and Policies, 89 Ill. Adm. Code 830

1) Rulemaking: Amendment

A) Description: This rulemaking may require changes for clarification purposes.

B) Statutory Authority: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)].

C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: 11/01/05

E) Effect small business, small municipalities or not for profit corporations:
None

DEPARTMENT OF HUMAN SERVICES

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- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None
- mm) Part(s) (Heading and Code Citation): Aid to the Aged, Blind or Disabled, 89 Ill. Adm. Code 113
- 1) Rulemaking: Amendment
- A) Description: The Department will be reviewing this Part of its rules for streamlining/clarification purposes.
- B) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 12/01/05
- E) Effect small business, small municipalities or not for profit corporations:
None
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772
- G) Related rulemakings and other pertinent information: None

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- nn) Part(s) (Heading and Code Citation): Developmental Disabilities Services, 89 Ill. Adm. Code 144
- 1) Rulemaking: Amendment
- A) Description: Amendments are anticipated which will modify language pertaining to the rates for services in private intermediate care facilities for the mentally retarded (ICF/MR) including those qualifying as serving a high medical/high personal care needs population or those termed as small scale residential facilities.
- B) Statutory Authority: Implementing Section 18.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/18.3] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].
- C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].
- D) Date agency anticipates First Notice: 7/01/05
- E) Effect small business, small municipalities or not for profit corporations:
Yes, this proposed rulemaking will affect small business. Qualifying private ICF/MR facilities will be positively affected by an increase in the rates paid for their services. Other changes will preserve the rate structure for currently existing small scale type residential facilities.
- F) Agency contact person for information:
Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772

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- G) Related rulemakings and other pertinent information: It is anticipated that there may be concurrent changes in Public Aid rule 89 Ill. Adm. Code 153 to refer to the rule being amended.

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- a) Part (Headings and Code Citations): Organization, Public Information, and Types of Proceedings; 2 Ill. Adm. Code 2175
- 1) Rulemaking:
- A) Description: 2 Ill. Adm. Code 2175 contains the Board's public information rules and organizational information, as required under Section 1-15 of the Administrative Procedure Act [5 ILCS 100/5-15] and Section 4 of the Freedom of Information Act [5 ILCS 140/4]. Among the information contained in Part 2175 is a listing of the Board's offices, including their addresses and telephone numbers. The Board has changed the location of some of the satellite offices and needs to amend Part 2175 to reflect the changes of address and telephone number. In addition, further review of Part 2175 could indicate more amendments to this Part.
- B) Statutory authority: Implementing and authorized by Section 1-15 of the Administrative Procedure Act [5 ILCS 100/5-15] and Section 4 of the Freedom of Information Act [5 ILCS 140/4].
- C) Scheduled meeting/hearing dates: Public hearings are not required to amend 2 Ill. Adm. Code 2175. However, the Board would conduct such hearings if the level of public interest indicates that public hearings are desirable.
- D) Date agency anticipates First Notice: The Board anticipates First Notice publication of the proposed rules in the *Illinois Register* in the Fall or Winter of 2005.
- E) Effect on small business, small municipalities, or not-for-profit corporation: There may be an effect on any small business, small municipality, or not-for-profit corporation that appears before the Board in any type of proceeding or which seeks to contact the Board for any reason, including to inspect and copy Board records. Proceedings before the Board include enforcement actions, rulemaking proceedings, variance proceedings, adjusted standard proceedings, site-specific rulemaking proceedings, permit appeals, pollution control facility siting appeals, and any other actions provided by law. At present, it appears that any amendments would have an insignificant impact on affected entities.

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JULY 2005 REGULATORY AGENDA

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: No other presently-anticipated proceedings would affect the text of Part 2175.

b) Parts (Headings and Code Citations):

General Rules; 35 Ill. Adm. Code 101

Regulatory and Informational Hearings and Proceedings; 35 Ill. Adm. Code 102

Enforcement; 35 Ill. Adm. Code 103

Regulatory Relief Mechanisms; 35 Ill. Adm. Code 104

Appeals of Final Decisions of State Agencies; 35 Ill. Adm. Code 105

Proceedings Pursuant to Specific Rules or Statutory Provisions; 35 Ill. Adm. Code 106

Petition to Review Pollution Control Facility Siting Decisions; 35 Ill. Adm. Code 107

Administrative Citations; 35 Ill. Adm. Code 108

Tax Certifications; 35 Ill. Adm. Code 125

Identification and Protection of Trade Secrets and Other Non-Disclosable Information; 35 Ill. Adm. Code 130

1) Rulemaking: R04-08

- A) Description: The Board is preparing a rulemaking to amend its procedural regulations to allow for electronic filings in all Board proceedings through the Board's new "Clerk's Office On-Line" (COOL). The Board's new

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filing procedure will allow for electronic filings and payment of filing fees.

- B) Statutory authority: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].
- C) Scheduled meeting/hearing dates: The Board has held two hearings in this rulemaking.
- D) Date agency anticipates First Notice: The Board anticipates First Notice publication of the proposed rules in the *Illinois Register* in the Fall or Winter of 2005.
- E) Effect on small business, small municipalities, or not-for-profit corporation: There may be an effect on any small business, small municipality, or not-for-profit corporation that appears before the Board in any type of proceeding or which seeks to contact the Board for any reason, including to inspect and copy Board records. Proceedings before the Board include enforcement actions, rulemaking proceedings, variance proceedings, adjusted standard proceedings, site-specific rulemaking proceedings, permit appeals, pollution control facility siting appeals, and any other actions provided by law.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East

POLLUTION CONTROL BOARD

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P.O. Box 19274
Springfield, Illinois 62794-9274
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conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: No other presently anticipated proceedings would affect the text of Parts 101 through 130.
- c) Part (Heading and Code Citation): Definitions and General Provisions; 35 Ill. Adm. Code 211
- 1) Rulemaking: Docket number R06-3
- A) Description: Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] mandates that the Board update the Illinois definition of volatile organic material (VOM) to reflect the additions made by the United States Environmental Protection Agency (USEPA) to the list of compounds exempt from regulation as ozone precursors. Those compounds are determined by USEPA to be exempt from regulation under the state implementation plan (SIP) for ozone in the federal “Recommended Policy on the Control of Volatile Organic Compounds” (Recommended Policy) due to their negligible photochemical reactivity. On February 3, 1992 (57 Fed. Reg. 3945), USEPA codified its definition of VOM at 40 CFR 51.100(s), which now embodies the former Recommended Policy. This codified definition now includes all the compounds and classes of compounds previously exempted in the former Recommended Policy. The Illinois definition of VOM is presently codified at 35 Ill. Adm. Code 211.7150.
- The Board has reserved docket number R06-3 to accommodate any federal amendments to the 40 CFR 51.100(s) definition of VOM that USEPA may make in the period January 1, 2005 through June 30, 2005. At this time, the Board is not aware of any federal amendments to the federal definition of VOM that occurred during this update period.
- The Board will verify the existence of any federal actions and the Board action required in response to each in coming weeks, by about mid-August 2005. The Board will then propose corresponding amendments to the Illinois definition of VOM using the identical-in-substance procedure or dismiss docket R06-3, as necessary and appropriate.

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Section 9.1(e) mandates that the Board complete amendments within one year of the date on which USEPA adopted its action upon which the amendments are based. In docket R06-3, if the earliest federal amendments in the applicable period are assumed to have occurred on the first day of the update period, on January 1, 2005, the due date for Board adoption would be January 1, 2006.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 9.1(e), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 9.1(e) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. The Board will then schedule and conduct at least one public hearing, as required by Section 118 of the federal Clean Air Act (42 USC § 7418) for amendment of the Illinois ozone SIP.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2005, after which time the Board will propose any amendments to the Illinois definition of VOM that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be January 1, 2006, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by October 2005. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board would promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of a chemical compound that is the subject of a proposed exemption or proposed deletion from the USEPA list of exempted compounds.

POLLUTION CONTROL BOARD

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- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-3, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda, noting docket number R06-3, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- d) Parts (Headings and Code Citations):
Definitions and General Provisions; 35 Ill. Adm. Code 211
Organic Material Emission Standards and Limitations for the Chicago Area; 35 Ill. Adm. Code 218
Organic Material Emission Standards and Limitations for the Metro East Area; 35 Ill. Adm. Code 219
- 1) Rulemaking: No docket presently reserved.

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- A) Description: The IEPA is currently developing amendments for proposal to the Board of Part 218 and Part 219 concerning motor vehicle refinishing. This involves amending the equipment requirements of the Parts to allow the use of paint applicator equipment that achieves the same or better transfer efficiency as the required High Volume Low Pressure (HVLP) equipment.
- B) Statutory authority: Implementing and authorized by Sections 9.8, 27, 28.2 of the Environmental Protection Act [415 ILCS 5/9.8, 27, 28.2].
- C) Scheduled meeting/hearing dates: The IEPA has stated that it anticipates submitting its rulemaking proposal to the Board in the Fall or Winter of 2005. No hearings are scheduled at this time. Once a proposal is filed, the Board will hold hearings on the schedule established in Section 27 of the Environmental Protection Act [415 ILCS 5/27] for rulemakings that are required under the federal CAA.
- D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Fall or Winter of 2005. After the filing of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that are involved in motor vehicle refinishing. However, the IEPA anticipates that the amendments will have no new substantive impact on any sources, since the amendments give greater flexibility to sources.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

POLLUTION CONTROL BOARD

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Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the IEPA's development of this proposal, please contact the following IEPA attorney:

Charles Matoesian
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

- e) Part (Headings and Code Citations): Solvent Cleaning; 35 Ill. Adm. Code 218 and 219

- 1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency is preparing a rulemaking relating to an alternative to the current cold cleaning provision requiring the use of solvent with a vapor pressure no greater than 1.0mm Hg (0.019 psi). The alternative is an alternative control plan employing add-on control devices that demonstrate at least 95 percent overall capture and control of emissions from cold cleaning operations.
- B) Statutory authority: Implementing Section 10 of the Environmental Protection Act [415 ILCS 5/10] and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].
- C) Scheduled meeting /hearing date: The IEPA has stated that it anticipates filing a rulemaking proposal with the Board in the Fall or Winter of 2005. No meetings or hearings are scheduled at this time. Once the proposal is

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filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

- D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Fall or Winter of 2005. After the filing of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule change may affect any small business, small municipality, or not-for-profit corporation subject to the Board's Cold Cleaning Degreaser rules.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemaking and other pertinent information: For information regarding the Illinois EPA's development of this proposal, please contact:

Annet Godiksen
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P.O. Box 19276

POLLUTION CONTROL BOARD

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Springfield, Illinois 62794-9276
217/782-5544

f) Part (Headings and Code Citations): Nitrogen Oxides Emissions; 35 Ill. Adm. Code 217

1) Rulemaking: No docket number presently assigned.

- A) Description: The proposal would amend Part 217 to update the incorporations by reference; to reflect the Agency's authority to sell certain allowances and clarify the compliance dates for sources affected by Subparts T, U, and W, pursuant to amendments to Section 9.9 of the Act; clarify the low-emitter provisions for Subpart U and remove the low-emitter provisions for Subpart W units; clarify that certain CO boilers are exempt from the provisions of Subpart U; clarify the dates that applications must be submitted, and the dates and control periods for which the Agency will allocate allowances; as well as amend to the Appendices to track name and allocation changes. These Subparts regulate emissions of NO_x emissions from boilers and turbines serving electric generator units greater than 25 megawatts; boilers and turbines with heat input greater than 250 mmBtu/hr; and large cement kilns with ozone season emissions greater than one ton.

Additional amendments to Part 217, will be proposed to address Phase II of the NO_x SIP call, that required affected states, including Illinois, to regulate the NO_x emissions from large stationary internal combustion engines. (69 *Fed. Reg.* 21604 (April 21, 2004)). This proposal may also include regulating NO_x emissions from smaller engines and turbines not covered by Subparts U and W, as part of the State's obligation to meet NO_x reasonably available control technology requirements (RACT) for the new 8-hour ozone National Ambient Air Quality Standard (NAAQS). (69 *Fed. Reg.* 23951 (April 30, 2004)).

- B) Statutory authority: Implementing and authorized by Sections 9, 9.9, 10, 27, and 28.5 of the Illinois Environmental Protection Act [415 ILCS 5/9, 9.9, 10, 27, and 28.5, (2003)].
- C) Scheduled meeting/hearing dates: None yet scheduled.

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- D) Date agency anticipates First Notice: The Board anticipates First Notice publication of the proposed rules in the *Illinois Register* in the Fall or Winter of 2005.
- E) Effect on small business, small municipalities, or not-for-profit corporation: Any small businesses, small municipalities, or not-for-profit corporations that are subject to the NOx Trading Program could be affected by the proposed amendments.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the IEPA's development of this proposal, please contact the following IEPA representative:

Rachel L. Doctors
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P.O. Box 19276
Springfield, Illinois 62794-9276
217/524-3337
epa8856@epa.state.il.us

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g) Part (Heading and Code Citation): Portable Fuel Containers; 35 Ill. Adm. Code 218 and 219

- 1) Rulemaking: No docket presently reserved.
 - A) Description: This rulemaking will address emissions from portable fuel containers.
 - B) Statutory authority: Implementing Sections 9 and 10 of the Environmental Protection Act [415 ILCS 5/9, 10] and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28]
 - C) Scheduled meeting /hearing date: The IEPA has stated that it anticipates filing a rulemaking proposal with the Board in the Fall or Winter of 2005. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].
 - D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Fall or Winter of 2005. After the filing of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation utilizing portable fuel containers.
 - F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
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Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

POLLUTION CONTROL BOARD

JULY 2005 REGULATORY AGENDA

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217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemaking and other pertinent information: For information regarding the Illinois EPA's development of this proposal, please contact:

Charles Matoesian
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
epa8855@epa.state.il.us

- h) Part (Heading and Code Citation): Commercial and Industrial Solid Waste Incineration Units; 35 Ill. Adm. Code 225

- 1) Rulemaking: No docket presently reserved.

- A) Description: On December 1, 2000, pursuant to Sections 111(d) and 129 of the Clean Air Act, the USEPA promulgated emission guidelines for commercial and industrial solid waste incinerators (65 Fed. Reg. 75337). Illinois is required to adopt a State plan that includes rules, implementing these emission guidelines. This rule would apply to units that commenced construction on or before November 30, 1999, and units where reconstruction or modification commenced prior to June 1, 2001.
- B) Statutory Authority: Implementing Sections 10, 39 and 39.5 of the Illinois Environmental Protection Act [415 ILCS 5/10, 39 and 39.5] and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/27 & 28.5].
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

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- D) Date Agency Anticipates First Notice: A Fall or Winter of 2005 IEPA submittal to the Board of the proposal is expected, after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small business, small municipalities or not-for-profit corporations: The prospective amendments would affect small businesses, small municipalities, or not-for-profit corporations that own or operate Existing Commercial and Industrial Solid Waste Incineration Units and Air Curtain Incinerators.
- F) Agency and Board contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
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- G) Related rulemakings and other pertinent information: For information regarding the IEPA's development of this proposal, please contact the following IEPA representative:

Rachel L. Doctors
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P.O. Box 19276
Springfield, Illinois 62794-9276
217/524-3337

POLLUTION CONTROL BOARD

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i) Part (Heading and Code Citation): Air Quality Standards; 35 Ill. Adm. Code 243)

1) Rulemaking: No docket presently reserved.

- A) Description: This rulemaking will make amendments to address the new PM 2.5 standard and incorporate the new 8-hour ozone standard.
- B) Statutory authority: Implementing Sections 9 and 10 of the Environmental Protection Act [415 ILCS 5/9, 10] and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28]
- C) Scheduled meeting /hearing date: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Fall or Winter of 2005. After the filing of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule will not directly affect any small business, small municipality, or not-for-profit corporation.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East

POLLUTION CONTROL BOARD

JULY 2005 REGULATORY AGENDA

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Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemaking and other pertinent information: For information regarding the Illinois EPA's development of this proposal, please contact:

Charles Matoesian
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
epa8855@epa.state.il.us

- j) Part (Heading and Code Citation): Water Quality Standards; 35 Ill. Adm. Code 302)

- 1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency (IEPA) is currently preparing a rulemaking proposal for filing before the Board relating to the water quality standards for total dissolved solids, sulfate and chloride. These amendments revise and add numeric water quality standards for the protection of aquatic life. The amended water quality standards will be used by the Illinois Environmental Protection Agency in ensuring compliance with the Clean Water Act requirements at 33 U.S.C. §1313 when issuing National Pollutant Discharge Elimination System permits pursuant to 415 ILCS 5/39(b) and water quality certifications required by 33 U.S.C. §1341.
- B) Statutory authority: Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].
- C) Scheduled meeting /hearing date: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Fall or Winter of 2005. After the filing

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of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the Illinois Register.

- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that discharges particular contaminants into waters of the State.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
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217/782-2471

- G) Related rulemaking and other pertinent information: For information regarding the Illinois EPA's development of this proposal, please contact:

Toby Frevert
Bureau of Water
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, Il. 62794-9276
217/782-1654

- k) Part (Heading and Code Citation): Water Use Designations and Site Specific Water Quality Standards; 35 Ill. Adm. Code 303

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- 1) Rulemaking: No docket presently reserved.
- A) Description: 35 Ill. Adm. Code 303 contains the Board's water use designations for all bodies of water in the State of Illinois with use designations other than general use. The IEPA has established a workgroup to conduct a Use Attainability Analysis, pursuant to 40 C.F.R. §131.10, of the portions of the lower Des Plaines River that are currently classified as secondary contact and indigenous aquatic life waters pursuant to 35 Ill. Adm. Code 303.441. In addition, the IEPA is preparing a rulemaking proposal for filing before the Board will recommend updating and/or upgrading the use designation of the lower Des Plaines River from its confluence with the Sanitary and Ship Canal to the Interstate 55 bridge.
- B) Statutory authority: Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].
- C) Scheduled meeting /hearing date: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Fall or Winter of 2005. After the filing of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that discharges into the lower Des Plaines River.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
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Chicago, Illinois 60601
312/814-3620

POLLUTION CONTROL BOARD

JULY 2005 REGULATORY AGENDA

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
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Springfield, Illinois 62794-9274
217/782-2471

- G) Related rulemaking and other pertinent information: For information regarding the Illinois EPA's development of this proposal, please contact:

Deborah J. Williams
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544

- l) Parts (Headings and Code Citations):
Sewer Discharge Criteria (35 Ill. Adm. Code 307)
Pretreatment Programs (35 Ill. Adm. Code 310)

- 1) Rulemaking: Docket number R06-2

- A) Description: Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] mandates that the Board update the Illinois wastewater pretreatment regulations to reflect revisions made to the federal wastewater pretreatment rules made by the United States Environmental Protection Agency (USEPA).

The Board has reserved docket number R06-2 to accommodate any amendments to the federal wastewater pretreatment rules, 40 CFR 400 through 499, that the USEPA may have made in the period January 1, 2005 through June 30, 2005. At this time, the Board is aware of one set of federal amendments to the federal wastewater pretreatment regulations that occurred during this update period. That set is described as follows:

70 Fed. Reg. 5058 (February 1, 2005)

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USEPA adopted corrections to the pretreatment standards for the transportation equipment cleaning source category.

The prior consolidated wastewater pretreatment docket, R05-4/R05-15, also involved amendments to Part 307. For the purposes of administrative economy, the Board included the federal action of February 1, 2005 in that docket. The Board has already adopted those amendments. No further Board action is necessary on the federal amendments of February 1, 2005. At this time, the Board is not aware of any other federal amendments to the federal SDWA regulations that might require Board action.

The Board will verify the existence of any other federal actions and the Board action required in response to each in coming weeks, by about mid-February 2005. The Board will then propose corresponding amendments to the Illinois SDWA primary drinking water regulations using the identical-in-substance procedure or dismiss docket R05-17, as necessary and appropriate.

The Board will verify the existence of any federal actions that may affect the text of the federal wastewater pretreatment regulations and the Board action required in response to each set of federal amendments in coming weeks, by about mid-August 2005. The Board will then propose corresponding amendments to the Illinois wastewater pretreatment regulations using the identical-in-substance procedure under docket R05-18, as necessary and appropriate.

Section 13.3 of the Act mandates that the Board complete amendments within one year of the date on which USEPA adopted its action upon which the amendments are based. In docket R06-2, if the earliest federal amendments in the applicable period are assumed to have occurred on the first day of the update period, on January 1, 2005, the due date for Board adoption would be January 1, 2006.

- B) Statutory 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 & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the

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Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2005, after which time the Board will propose any amendments to the Illinois wastewater treatment rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be January 1, 2006, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by October 2005. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois wastewater pretreatment rules is needed, the Board would promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that pretreatment engages in the discharge of pollutants into the collection system of a publicly-owned treatment works that is the subject of any federal amendments.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-2, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda, noting docket number R06-2, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
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POLLUTION CONTROL BOARD

JULY 2005 REGULATORY AGENDA

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mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 13.3 of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.
- m) Part (Heading and Code Citation): Standards for Sludge Management; 35 Ill. Adm. Code 313
- 1) Rulemaking: No docket presently reserved
- A) Description: The Illinois Environmental Protection Agency (IEPA) is currently preparing a rulemaking proposal for filing before the Board relating to land application of sewage sludge. The rules would establish pollutant limits, pathogen reduction requirements, and vector control measures applicable to sludge that is applied to land.
- B) Statutory authority: Implementing and authorized by Sections 11 and 27 of the Environmental Protection Act [415 ILCS 5/11 & 27]
- C) Schedule meeting/hearing date: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal during the Fall or Winter of 2005. After the filing of a proposal by the IEPA, the Board will cause a Notice of Proposed Rules to appear in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that generates or uses sewage sludge.

POLLUTION CONTROL BOARD

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- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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Pollution Control Board
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312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
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1021 North Grand Avenue East
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conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: No other presently known Board proceedings would potentially impact the general provisions of Part 313. The IEPA anticipates proposing amendments to its rules entitled "Design Criteria for Sludge Application on Land," 35 Ill. Adm. Code 391, which involve a related subject matter. For information regarding the IEPA's development of this proposal, please contact the following IEPA attorney:

Stefanie Diers
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Interested persons may also contact the following IEPA representative about its prospective rulemaking proposal:

Alan Keller, P.E.
Manager, Northern Municipal Unit

POLLUTION CONTROL BOARD

JULY 2005 REGULATORY AGENDA

Illinois Environmental Protection Agency
Division of Water Pollution Control
Bureau of Water
1021 North Grand Avenue East
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Springfield, Illinois 62794-9276
217/782-0810

- n) Parts (Heading and Code Citation): Agriculture Related Water Pollution; 35 Ill. Adm. Code Subtitle E
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (IEPA) will prepare a rulemaking proposal for filing before the Board Relating to the new Concentrated Animal Feeding Operation National Pollutant Discharge Elimination System (NPDES) regulations that were signed by USEPA on December 15, 2002. The IEPA anticipates a review of Subtitle E and a proposal to ensure that it remains consistent with the federal regulations and caselaw reviewing these regulations. See *Waterkeeper Alliance et al v. U.S. EPA*, 2005 Westlaw 453139 (Feb. 28, 2005).
- B) Statutory Authority: Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: An IEPA submittal of the rulemaking proposal is anticipated by Fall or Winter of 2005. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28] upon receipt of the proposal and would cause a Notice of Proposed Amendments to appear in the *Illinois Register* when it decides to propose amendments for First Notice.
- E) Affect on small businesses, small municipalities or not for profit corporations: This rule could affect any agri-business that meets the federal definition of a Concentrated Animal Feeding Operation.

POLLUTION CONTROL BOARD

JULY 2005 REGULATORY AGENDA

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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conleye@ipcb.state.il.us

- G) Related Rulemaking and other pertinent information: Interested persons may contact the IEPA about its prospective rulemaking proposal as follows:

Deborah J. Williams
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217/782-5544

- o) Part (Heading and Code Citation): Primary Drinking Water Standards (35 Ill. Adm. Code 611)

- 1) Rulemaking: Docket number R06-4

- A) Description: Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] mandates that the Board update the Illinois SDWA regulations to reflect the USEPA amendments to the federal Safe Drinking Water Act (SDWA) primary drinking water regulations.

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The Board has reserved docket number R06-4 to accommodate any amendments to the SDWA national primary drinking water standards, 40 CFR 141 through 143, that the United States Environmental Protection Agency (USEPA) may make in the period January 1, 2005 through June 30, 2005. At this time, the Board is not aware of any federal amendments to the federal primary drinking water regulations that occurred during this update period.

The Board will verify the existence of any federal actions that may affect the text of the federal primary drinking water standards and the Board action required in response to each in coming weeks, by about mid-August 2005. The Board will then propose corresponding amendments to the Illinois SDWA primary drinking water regulations using the identical-in-substance procedure or dismiss docket R06-4, as necessary and appropriate.

Section 17.5 mandates that the Board complete its amendments within one year of the date on which the United States Environmental Protection Agency (USEPA) adopted its action upon which the amendments are based. In docket R06-4, if the earliest federal amendments in the applicable period are assumed to have occurred on the first day of the update period, on January 1, 2005, the due date for Board adoption would be January 1, 2006.

- B) Statutory authority: Implementing and authorized by Sections 17, 17.5, and 27 of the Environmental Protection Act [415 ILCS 5/17, 17.5 & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2005, after which time the Board will propose any amendments to the Illinois SDWA drinking water rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be January

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1, 2006, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by October 2005. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board would promptly dismiss this reserved docket.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois that owns or operates a “public water supply,” as defined by Section 3.28 of the Act, *i.e.*, it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-4, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda, noting docket number R06-4, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it

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is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- p) Part (Headings and Code Citations): Laboratory Accreditation Rules; 35 Ill. Adm. Code 611
- 1) Rulemaking: No docket presently reserved.
 - A) Description: The Illinois Environmental Protection Agency's (IEPA) proposal will seek to amend the public water supplies rules found in 35 Ill. Adm. Code 611 to cross reference the IEPA's own laboratory accreditation rules found at 35 Ill. Adm. Code 186. These prospective amendments to Sections 611.359, 611.611, 611.646, and 611.648 would cross-reference the laboratory accreditation rules at 35 Ill. Adm. Code 186. Currently, the existing text of Part 611 references 35 Ill. Adm. Code 183, which are joint rules of the IEPA, the Illinois Department of Public Health, and the Illinois Department of Nuclear Safety. A repeal of Part 183 has been completed.
 - B) Statutory Authority: Sections 27 and 28 of the Illinois Environmental Protection Act [415 ILCS 5/27 & 28].
 - C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
 - D) Date Agency Anticipates First Notice: An IEPA submittal of the rulemaking proposal is anticipated by Fall or Winter of 2005. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28] upon receipt of the proposal and would cause a Notice of Proposed Amendments to appear in the *Illinois Register* when it decides to propose amendments for First Notice.
 - E) Affect on small business, small municipalities or not-for-profit corporations: These amendments may affect small business, small municipalities, and not-for-profit corporations that own or operate a

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"public water supply", as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance with the federally-derived National Primary Drinking Water Standards of 35 Ill. Adm. Code 611. However, it is anticipated that the proceeding will not likely have a quantifiable affect on these entities because the program for national laboratory certification is voluntary. The burden of compliance with the requirements, such as filing documentation, reporting or completion of the necessary forms, likely will not increase.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Other pertinent information concerning these amendments: Another prospective proceeding (see item (o) above) and other, as yet unknown proceedings could affect the text of Part 611. Interested persons may contact the IEPA about its prospective rulemaking proposal as follows:

Jim Shaw
Division of Laboratories
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P. O. Box 19276

POLLUTION CONTROL BOARD

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Springfield IL 62794-9276
217/782-5544

- q) Part (Headings and Code Citations): Maximum Setback Zones; 35 Ill. Adm. Code 618 – Part reserved)
- 1) Rulemaking: R05-09
- A) Description: 35 Ill. Adm. Code 618 is a new Part that prescribes maximum setback zones and the applicable technology control regulations that apply under 35 Ill. Adm. Code 615 and 616. This new Part is necessary to ensure public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to ensure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply.
- B) Statutory authority: Implementing Section 14.3 of the Illinois Environmental Protection Act [415 ILCS 5/14.3] and authorized by Section 27 the Illinois Environmental Protection Act [415 ILCS 5/27].
- C) Scheduled meeting/hearing dates: The Board held hearings in this rulemaking on March 1, 2005, at the Pekin City Hall, Council Chambers; and on Tuesday, April 5, 2005, in Chicago.
- D) Date agency anticipates First Notice: The Board anticipates filing this rulemaking for first notice in the Summer or Fall of 2005.
- E) Effect on small business, small municipalities, or not-for-profit corporation: This rule will affect any small business, small municipality, or not-for-profit corporation that is located within the maximum setback zone and does any of the following: land filling, land treating, surface impounding or piling of special waste and other wastes that could cause contamination of groundwater when such wastes are generated on the site (other than hazardous, livestock and landscape waste, and construction and demolition debris); storing of special waste in an underground storage tank for which federal regulatory requirements for the protection of groundwater are not applicable; storing and related handling of pesticides and fertilizers at a facility for the purpose of commercial application;

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storing and related handling of road oils and de-icing agents at a central location; or storing and related handling of pesticides and fertilizers at a central location for the purpose of distribution to retail sales outlets. (415 ILCS 5/14.3)

Further, this rule will affect any small business, small municipality, or not-for-profit corporation that proposes to locate a Potential Primary Source within such zone after the effective date of this regulation. "Potential primary source" means any unit at a facility or site not currently subject to a removal or remedial action that: 1) is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site; 2) is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; 3) is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or 4) stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground, of any hazardous substances.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the IEPA's development of this proposal, please contact the following IEPA representative:

Richard Cobb

POLLUTION CONTROL BOARD

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Illinois Environmental Protection Agency
1021 North Grand Avenue East, P.O. Box 19276
Springfield, Illinois 62794-9276
217/785-4787
Rick.Cobb@epa.state.il.us

- r) Parts (Headings and Code Citations):
RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)
UIC Permit Program (35 Ill. Adm. Code 704)
Procedures For Permit Issuance (35 Ill. Adm. Code 705)
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730)
Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)

1) Rulemaking: Presently reserved docket number R06-5

- A) Description: Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] mandates that the Board update the Illinois underground injection control (UIC) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UIC regulations.

The Board has reserved docket number R06-5 to accommodate any amendments to the federal UIC regulations, 40 CFR 144 through 148, during the period January 1, 2005 through June 30, 2005. At this time, the Board is aware of one set of federal amendments to the federal UIC regulations that occurred during this update period. That set of amendments is described as follows:

70 Fed. Reg. 9138 (February 24, 2005)

USEPA adopted a new hazardous waste listing for wastes from production of dyes, pigments, and food, drug, and cosmetic colorants. USEPA further instituted land disposal restrictions for the newly listed K181 wastes, including underground injection restrictions.

The Board will verify the existence of any additional federal actions and the Board action required in response to each in coming weeks, by about mid-August 2005. The Board will then propose corresponding amendments to the Illinois UIC regulations using the identical-in-

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substance procedure or dismiss docket R06-5, as necessary and appropriate.

Section 13(c) mandates that the Board complete amendments within one year of the date on which USEPA adopted its action upon which the amendments are based. Assuming for the purposes of illustration that the earliest USEPA action during the update period that will require Board action is February 24, 2005, the due date for Board adoption of all amendments in the period would be February 24, 2006.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 13(c) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13(c) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2005, after which time the Board will propose any amendments to the Illinois UIC rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be February 24, 2006, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by November 2005. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois to the extent the affected entity engages in the underground injection of waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-5, as follows:

POLLUTION CONTROL BOARD

JULY 2005 REGULATORY AGENDA

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda, noting docket number R06-4, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: The reserved RCRA Subtitle C update docket R06-7 (see item (s) below), and other, as yet unknown, unrelated Board proceedings may affect the text of Parts 702, 705, and 720. No other presently-known proceeding would affect Parts 730 and 738.

USEPA adopted the federal UIC amendments of February 24, 2005 together with closely associated amendments to the Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste regulations. The UIC and RCRA Subtitle C amendments both relate to a single new hazardous waste listing. Due to the related subject matter, and for the purposes of administrative economy, the Board will likely consolidate UIC update docket R06-5 together with RCRA Subtitle C update docket R06-7 for single consideration and adoption.

Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

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- s) Parts (Headings and Code Citations):
RCRA AND UIC Permit Programs (35 Ill. Adm. Code 702)
RCRA Permit Program (35 Ill. Adm. Code 703)
Procedures For Permit Issuance (35 Ill. Adm. Code 705)
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)
Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)
Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)
Standards For Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)
Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726)
Land Disposal Restrictions (35 Ill. Adm. Code 728)
Standards for Universal Waste Management (35 Ill. Adm. Code 733)
Standards for The Management of Used Oil (35 Ill. Adm. Code 739)

1) Rulemaking: Docket number R06-7

- A) Description: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] mandates that the Board update the Illinois rules implementing Subtitle C of the federal Resource Conservation and Recovery Act (RCRA) to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle C regulations.

The Board has reserved docket number R06-7 to accommodate any amendments to the federal RCRA Subtitle C program, 40 CFR 260 through 270, 273, and 279, that USEPA made in the period January 1, 2005 through June 30, 2005. At this time, the Board is aware of two sets of federal amendments to the federal RCRA Subtitle C hazardous waste regulations that occurred during this update period. Those sets of amendments are described as follows:

70 Fed. Reg. 9138 (February 24, 2005)

USEPA adopted a new hazardous waste listing for wastes from production of dyes, pigments, and food, drug, and cosmetic colorants. USEPA further instituted land disposal restrictions for

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the newly listed K181 wastes, including underground injection restrictions.

70 Fed. Reg. 10776 (March 4, 2005)

USEPA adopted modifications to the hazardous waste manifest system.

The Board will verify the existence of any federal actions and the Board action required in response to each in coming weeks, by about mid-August. The Board will then propose corresponding amendments to the Illinois RCRA Subtitle C hazardous waste regulations using the identical-in-substance procedure or dismiss docket R06-7, as necessary and appropriate.

Section 22.4(a) mandates that the Board complete our amendments within one year of the date on which the United States Environmental Protection Agency (USEPA) adopted its action upon which our amendments are based. Assuming for the purposes of illustration that the earliest USEPA action during the update period that will require Board action is February 24, 2005, the due date for Board adoption of all amendments in the period would be February 24, 2006.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 22.4(a), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August after which time the Board will propose any amendments to the Illinois RCRA Subtitle C hazardous waste rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be February 24, 2006, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the

POLLUTION CONTROL BOARD

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Illinois Register by early October 2005. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the generation, transportation, treatment, storage, or disposal of hazardous waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-7, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda, noting docket number R06-4, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: The reserved UIC update docket R06-5 (see item (r) above), and other, as yet unknown, unrelated Board proceedings may affect the text of Parts 702, 705, and 720. No other presently-known proceeding would affect Parts 703, 721, 722, 723, 724, 725, 726, 728, 733, and 739.

USEPA adopted the federal RCRA Subtitle C hazardous waste amendments of February 24, 2005 together with closely associated amendments to the underground injection control (UIC) regulations. The RCRA Subtitle C and UIC amendments both relate to a single new hazardous waste listing. Due to the related subject matter, and for the

POLLUTION CONTROL BOARD

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purposes of administrative economy, the Board will likely consolidate RCRA Subtitle C update docket R06-7 together with UIC update docket R06-5 for single consideration and adoption.

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

t) Part (Heading and Code Citation): Underground Storage Tanks (35 Ill. Adm. Code 731)

1) Rulemaking: Docket number R06-1

A) Description: Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] mandates that the Board update the Illinois underground storage tank (UST) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UST regulations. The mandate specifically excludes federal amendments relating to the design, construction, installation, general operation, release detection, release reporting, release investigation, release confirmation, out-of-service systems, and closure or financial responsibilities for USTs.

The Board has reserved docket number R06-1 to accommodate any amendments to 40 CFR 281 through 283 that USEPA may make in the period January 1, 2005 through June 30, 2005. At this time, the Board is not aware of any federal amendments that occurred during this update period.

The Board will verify the existence of any federal actions and the Board action required in response to each in coming weeks, by about mid-August 2005. The Board will then propose corresponding amendments to the Illinois UST regulations using the identical-in-substance procedure or dismiss docket R06-1, as necessary and appropriate.

Section 22.4(d) mandates that the Board complete our amendments within one year of the date on which USEPA adopted its action upon which our

POLLUTION CONTROL BOARD

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amendments are based. Assuming for the purposes of illustration that USEPA adopted an amendment that will require Board action on the first day of the update period, on January 1, 2005, the due date for Board adoption would be January 1, 2006.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 22.4(d), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(d) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2005, after which time the Board will propose any amendments to the Illinois UST regulations that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be January 1, 2006, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by early October 2005. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois regulations is needed, the Board would promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that owns or operations USTs.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-1, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street Suite 11-500

POLLUTION CONTROL BOARD

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Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda, noting docket number R06-4, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: No other presently-known proceeding would impact the text of Part 731.

Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- u) Part (Headings and Code Citation): Tiered Approach to Correction Action Objections; 35 Ill. Adm. Code 742

- 1) Rulemaking: No docket presently reserved.

A) Description: Since the Board rules were adopted on June 5, 1997, the IEPA's implementation of the rules has given rise to the need for some amendments, corrections, and clarifications to existing rules. Additionally, technical documents that were used in drafting the rules have been updated, necessitating amendments to the rules.

B) Statutory Authority: These amendments will be proposed pursuant to Sections 27, 57.14 and 58.5 of the Environmental Protection Act [415 ILCS 5/27, 57.14, and 58.5].

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- C) Scheduled Meeting/Hearing Dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date Agency Anticipates First Notice: The IEPA anticipates submitting its proposal in Fall or Winter of 2005, after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on Small Business, Small Municipalities, or Not-for-Profit Corporations: The amendments may affect any small business, small municipality or not-for-profit corporation subject to the Board's tiered approach to corrective action rules
- F) Agency Contact Person for Information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related Rulemaking and other pertinent information: No other presently known proceeding would impact the text of Part 742.

For information regarding the development of these amendments please contact:

Kimberly A. Geving

POLLUTION CONTROL BOARD

JULY 2005 REGULATORY AGENDA

1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

- v) Part (Headings and Code Citation): Site Remediation Program; (35 Ill. Adm. Code 740)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Site Remediation Program (“SRP”) is one of the Illinois Environmental Protection Agency’s (“Illinois EPA”) primary remediation programs for the cleanup of contaminants released to soil or groundwater. Remediation sites from throughout Illinois participate in the SRP. For a variety of reasons including threats to adjacent properties, their occupants, or potable water supplies, certain of these sites create or attract a heightened level of public attention or concern. For these sites and others that attract public concern, the Illinois EPA expects to propose amendments to Part 740 requiring some combination of public notice and Community Relations Workplans. The purpose of the workplan would be to establish two-way communications between the Remediation Applicant and community members who may be affected by (or perceive they are affected by) site contamination and activities at the site. Minimum requirements for conducting potable water well surveys are likely to be included.
- B) Statutory Authority: Sections 4(i), 27, and 28 of the Environmental Protection Act [415 ILCS 5/4(i), 27, 28]
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date Agency Anticipates First Notice: The IEPA anticipates submitting its proposal in the Fall or Winter of 2005 after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on Small Business, Small Municipalities, or Not-for-Profit Corporations: Generally, small businesses, small municipalities and not-for-profit corporations will not be affected by the proposal unless they perform environmental remediation pursuant to the Site Remediation

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Program. In most cases, participation in the SRP is voluntary, the exception being participation under Board or court orders arising out of enforcement actions. For those who do choose to enroll in the SRP, and who fall within the criteria for developing and implementing a Community Relations Workplan, the workplan will require identifying the affected or interested public, selecting appropriate methods of outreach to that public, establishing a document repository, preparing and updating a fact sheet with identification, history and plans for the remediation site, and proposing a schedule for implementation of the workplan. These requirements will increase the resources necessary for participation in the SRP for those Remediation Applicants whose sites fall within the criteria.

- F) Agency Contact Person for Information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related Rulemaking and other pertinent information: For information regarding the development of these amendments please contact:

Mark Wight
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P. O. Box 19276

POLLUTION CONTROL BOARD

JULY 2005 REGULATORY AGENDA

Springfield, Illinois 62794-9276

217/782-5544

Mark.Wight@epa.state.il.us

w) Part (Headings and Code Citation): Solid Waste and Special Waste Hauling; 35 Ill. Adm. Code Part 807 and 811

1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency is planning to propose amendments to Part 807 Subpart F and Part 811 Subpart G relating to Financial Assurance including adding evergreen renewal language to several financial assurance mechanisms.
- B) Statutory Authority: These amendments will be proposed pursuant to Sections 21.1, 22 and 27 of the Environmental Protection Act [415 ILCS 5/21.1, 22 and 27]
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date Agency Anticipates First Notice: The IEPA anticipates submitting its proposal in Spring 2005, after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on Small Business, Small Municipalities, or Not-for-Profit Corporations: The amendments may affect any small business, small municipality or not-for-profit corporation providing or requesting financial assurance for the closure and post closure care of waste disposal sites.
- F) Agency Contact Person for Information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

POLLUTION CONTROL BOARD

JULY 2005 REGULATORY AGENDA

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related Rulemaking and other pertinent information: The Agency anticipates submitting related amendments to 35 Ill. Adm. Code 740 in conjunction with the proposal of Part 743. For information regarding the development of these amendments please contact:

: Stephanie Flowers
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
Stephanie.Flowers@epa.state.il.us

- x) Parts (Headings and Code Citations):
Solid Waste (35 Ill. Adm. Code 807)
Solid Waste Disposal: General Provisions (35 Ill. Adm. Code 810)
Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811)
Information to Be Submitted in a Permit Application (35 Ill. Adm. Code 812)
Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813)
Interim Standards for Existing Landfills and Units (35 Ill. Adm. Code 814)
Procedural Requirements for All Landfills Exempt from Permits (35 Ill. Adm. Code 815)

- 1) Rulemaking: Presently reserved docket number R06-6

- A) Description: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] mandates that the Board update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) regulations to reflect the United States Environmental

POLLUTION CONTROL BOARD

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Protection Agency (USEPA) amendments to the federal RCRA Subtitle D MSWLF rules.

The Board has reserved docket number R06-6 to accommodate any amendments to the RCRA Subtitle D regulations, 40 CFR 258, that USEPA may make in the period January 1, 2005 through June 30, 2005. At this time, the Board is not aware of any federal amendments to the federal RCRA Subtitle D MSWLF regulations that occurred during this update period. The Board will verify the existence of any other federal actions and the Board action required in response to each in coming weeks, by about mid-August 2005. The Board will then propose corresponding amendments to the Illinois RCRA Subtitle D municipal solid waste regulations using the identical-in-substance procedure or dismiss docket R06-6, as necessary and appropriate.

Section 22.40(a) mandates that the Board complete its amendments within one year of the date on which USEPA adopted its action upon which the amendments are based. In docket R06-6, if the earliest federal amendments in the applicable period is assumed to have occurred on the first day of the update period, on January 1, 2005, the due date for Board adoption of all amendments in the period would be January 1, 2006.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 22.40(a) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.40(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2005, after which time the Board will propose any amendments to the Illinois RCRA Subtitle D MSWLF rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be January 1, 2006, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by October 2005. This would be sufficiently in advance of the due date to

POLLUTION CONTROL BOARD

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allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit that engages in the land disposal of municipal solid waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-6, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda, noting docket number R06-4, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: No other presently-known proceedings would affect the text of Parts 807, 810, 811, 812, 813, 814, or 815.

Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

POLLUTION CONTROL BOARD

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y) Part (Headings and Code Citations): Management of Used and Waste Tires; 35 Ill. Adm. Code 848

1) Rulemaking: No docket presently reserved.

A) Description: The Illinois Environmental Protection Agency is planning to propose amendments to the Board's regulations that will allow better implementation of the used and waste tire management program including changes necessary to make the Board's rules consistent with legislative amendments to Title XIV of the Environmental Protection Act [415 ILCS 5/53 et seq.] resulting from Public Act 92-0024.

B) Statutory authority: Sections 27 and 55.2 of the Environmental Protection Act [415 ILCS 5/27 and 55.2].

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date Agency anticipates First Notice: Submission to the Board by the Illinois EPA may be as soon as the Spring 2005, after which the Board will cause publication of a Notice of Proposed Rules in the *Illinois Register*.

E) Effect on small businesses, small municipalities or not-for-profit corporations:

This rulemaking may affect any small business, small municipality or not-for-profit corporation that manages used or waste tires.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

POLLUTION CONTROL BOARD

JULY 2005 REGULATORY AGENDA

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: No other presently-known proceeding will affect solid waste transfer stations. For information regarding the development of these rules please contact:

Stephanie Flowers
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544
Stephanie.Flowers@epa.state.il.us

- z) Part (Headings and Code Citations): Procedures for Permitting Clean Construction or Debris Fill Operations; 35 Ill. Adm. Code 825 (new Part).

1) Rulemaking:

- A) Description: The proposed new rule creates procedures for permitting clean construction or demolition debris fill operations pursuant to new Section 22.51, contained in Senate Bill 431 (enrolled). Senate Bill 431 was recently passed by the General Assembly.
- B) Statutory authority: Authorized by Section 22.51(c), see Senate Bill 431 (enrolled).
- C) Scheduled meeting/hearing dates: None yet scheduled.
- D) Date agency anticipates First Notice: None yet scheduled.

POLLUTION CONTROL BOARD

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- E) Effect on small business, small municipalities, or not-for-profit corporation: Any small business, small municipality, or not-for-profit corporation seeking to use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation will be subject to Section 22.51 (see Senate Bill 431, enrolled).
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: No other presently-anticipated proceedings would affect the text of Part 825.
- aa) Parts (Headings and Code Citations):
Standards and Requirements for New and Existing Municipal Waste Transfer Stations (New Part)
Information to be Submitted in a Permit Application for a Municipal Waste Transfer Station (New Part)
Procedural Requirements for Municipal Waste Transfer Station Permits (New Part)
- 1) Rulemaking: No docket presently reserved.
- A) Description: Municipal waste transfer stations currently are regulated under 35 Ill. Adm. Code 807. The Part 807 rules were developed primarily for solid waste landfills. As applied to transfer stations, they are very

POLLUTION CONTROL BOARD

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general with many of the specific requirements for transfer stations imposed through permit conditions under Section 807.206. Transfer stations are increasing in number and importance in Illinois' waste management system. In addition, the United States Environmental Protection Agency published in June 2002 "Waste Transfer Stations: A Manual for Decision-Making" (EPA530-R-02-002), guidance developed to "promote the use of best practices in transfer station siting, design and operation to maximize facilities' effectiveness while minimizing their impact on the community." In light of these factors, the Illinois Environmental Protection Agency ("Illinois EPA") is developing new Parts that will provide more specific requirements for the design, construction, operation and closure of municipal waste transfer stations as well as procedures for obtaining permits. Included with municipal waste transfer stations accepting garbage and general household and commercial waste are those transfer stations accepting exclusively construction and demolition debris and those used exclusively for landscape waste.

- B) Statutory authority: These rules will be proposed pursuant to Sections 4(i), 21(d), 22, 27 and 28 of the Environmental Protection Act ("Act") [415 ILCS 5/4(i), 21(d), 22, 27, 28].
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings in accordance with Sections 27 and 28 of the Act [415 ILCS 5/27, 28].
- D) Date Agency anticipates First Notice: Submission to the Board by the Illinois EPA may be as soon as the Fall or Winter of 2005, after which the Board will cause publication of a Notice of Proposed Rules in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Generally, small businesses, small municipalities and not-for-profit corporations will not be affected by the proposal unless they receive municipal waste for transfer prior to treatment or disposal. For those that do, the substantive changes in requirements for design, construction and operation are expected to be minimal with many existing transfer stations already in compliance with most of the standards and requirements. However, there may be some expense for upgrading existing transfer stations.

POLLUTION CONTROL BOARD

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- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-3620

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: No other presently known proceeding will affect municipal waste transfer stations. For information regarding the development of these rules please contact:

Mark Wight
:
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
Mark.Wight@epa.state.il.us

PROPERTY TAX APPEAL BOARD

JULY 2005 REGULATORY AGENDA

- a) Part: (Heading and Code Citation): Practice and Procedure for Hearings Before the Property Tax Appeal Board, 86 Ill. Adm. Code 1910.

1) Rulemaking:

- A) Description: The Property Tax Appeal Board anticipates amending the following rules:

Section 1910.30(i) – to clarify that notice to a contesting party's attorney is deemed notice to the contesting party.

Section 1910.68 – to amend the provisions for the issuance of subpoenas.

A new section on Motion practice will be added.

- B) Statutory Authority: 35 ILCS 200/Art. 7 and 35 ILCS 200/16-160 through 16-195
- C) Scheduled meeting/hearing date: There is no proposed scheduled of dates for meetings/hearings at this time.
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

James W. Chipman
Executive Director
Property Tax Appeal Board
402 Stratton Office Bldg.
401 S. Spring St.
Springfield IL 62706
217/782-6076

- G) Related rulemaking and other pertinent information: The Property Tax Appeal Board currently has a pending rulemaking published in the Illinois Register, Volume 29, Issue 19, page 6208, May 6, 2005.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of June 28, 2005 through July 5, 2005 and have been scheduled for review by the Committee at its July 12, 2005 or August 16, 2005 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> |
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| 8/11/05 | <u>Department of Public Aid</u> , Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153) | 4/1/05 29 Ill. Reg. 4715 | 7/12/05 |
| 8/13/05 | <u>Sex Offender Management Board</u> , Interim Sex Offender Evaluations and Treatment (20 Ill. Adm. Code 1905) | 4/22/05 29 Ill. Reg. 5650 | 7/12/05 |
| 8/18/05 | <u>Department of Central Management Services</u> , Pay Plan (80 Ill. Adm. Code 310) | 5/6/05 29 Ill. Reg. 6148 | 8/16/05 |

PROCLAMATIONS

2005-229**Health Care Month**

WHEREAS, every citizen in Illinois deserves to have access to quality, affordable health care; and

WHEREAS, since the beginning of my administration in 2003, 313,000 more men women and children have received health care through the KidCare and FamilyCare programs – at a time when most states are not only not providing more coverage for the working poor, but also kicking people off of Medicaid or significantly reducing their benefits. This year’s budget included funding to add another 56,000 men, women and children. Because of our success in this area, the Kaiser Foundation has ranked Illinois the best state in the nation for providing health care to people who need it the most; and

WHEREAS, this spring, the Illinois General Assembly passed the Leave No Senior Behind Act, which is Illinois’ response to the federal Medicare Rx drug benefit. Because of the major holes in the federal program, this plan fills in the gaps so Illinois seniors will not suffer the same fate as seniors in other states; and

WHEREAS, to ensure that every Illinois woman receives sufficient health care coverage, my administration created the Illinois Healthy Women program. To date, the program has served more than 90,000 women who would have otherwise gone without health care; and

WHEREAS, in conjunction with the Chicagoland Chamber of Commerce, my administration is developing a small business health insurance program that will help small businesses reduce their costs by 10-15% and provide more health care for their employees. Illinois will be the first state in the nation to create a pool where businesses of 50 employees or less can join, saving money on the negotiated rate, administrative costs and broker fees; and

WHEREAS, through an innovative new program called I-SAVE Rx, Illinois became the first state to allow its citizens to purchase prescription drugs from Europe and Canada. Nearly 10,000 people have enrolled in the last few months alone to take advantage of lower prices (25-50% less) for over 120 name brand prescription drugs, and other states have since joined in this effort; and

WHEREAS, along with the aforementioned initiatives, Fiscal Year 2006 will see great improvements in the way we ensure the health and well-being of Illinoisans. These include: enhancing access to pharmacy services and dental care; increasing awareness of Chronic Kidney Disease; expanding funding for Diabetes research; and reducing the nursing shortage in Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 2005 as **HEALTH CARE MONTH** in Illinois, and encourage all citizens to learn about the ways in which they can improve the health of themselves and their families by taking advantage of the many exciting new programs in this state.

Issued by the Governor June 28, 2005.

Filed by the Secretary of State June 28, 2005.

2005-230**Illinois Community Colleges**

PROCLAMATIONS

WHEREAS, Illinois' Community College Act was signed into law on July 15, 1965, creating the Illinois Community College System; and

WHEREAS, the Illinois Community College System comprises 39 Districts containing 48 colleges that provide education to more than one million people per year; and

WHEREAS, the Illinois Community College System is the third largest system of community colleges in the nation; and

WHEREAS, each of the 48 colleges are unique since each school's mission is to shape their curriculum based on community need. With that said, they all share a common mission: to provide high quality, affordable, accessible, higher education to all of Illinois' citizens; and

WHEREAS, every citizen in Illinois is served by a community college district, and

WHEREAS, since the Illinois Community College System's inception in 1965, more than 18 million students have passed through community college doors on their way to a more profitable, more enlightened and more fulfilling life; and

WHEREAS, the average earnings of someone with an Associate Degree is 34 percent higher than one with just a High School Diploma, and

WHEREAS, the Illinois Community College System is a comprehensive educational experience, providing instruction in college credit, adult education, and workforce development; and

WHEREAS, this year, the State of Illinois celebrates the contributions from its Community College System for 40 amazing years:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby recognize **ILLINOIS COMMUNITY COLLEGES** for providing 40 years of quality, affordable higher education to the people of this state.

Issued by the Governor June 28, 2005.

Filed by the Secretary of State June 28, 2005.

2005-231**"Wild" Bill Holden Day**

WHEREAS, "Wild" Bill Holden, a school teacher from Elgin, Illinois, earned his teaching degree from Southern Illinois University and has worked in the public school system for the past 32 years. Since relocating to Arizona several years ago, Bill has been instrumental in helping and teaching diabetic children on Indian reservations; and

WHEREAS, a die-hard fan of the Chicago Cubs, Bill attended his first game at Wrigley Field in 1957 and has followed the team ever since. To this day, one of his favorite Chicago Cubs remains 9-time All-Star third baseman, #10, Ron Santo; and

WHEREAS, on New Years Eve, 2005, Bill received as a gift from his son, a copy of the film "This Old Cub," which tells the inspiring story of Ron Santo's great successes in the game of baseball while faced with the adversity of living with juvenile diabetes. Bill was so moved by the film that he decided to fulfill his longtime desire to contribute significantly in the ongoing mission of finding a cure for the disease; and

PROCLAMATIONS

WHEREAS, on Tuesday, January 11, 2005, Bill set out on an historic journey. Dubbed as “Wild Bill’s Walk the Walk,” Bill departed from Camp Verde, Arizona with the intention of walking 2,100 miles to Chicago. Along the way, he would stop in various American towns to create awareness of juvenile diabetes, and to raise funds for the Juvenile Diabetes Research Foundation (JDRF); and

WHEREAS, on Friday, July 1, Bill Holden’s mission will be complete, as he will arrive at Wrigley Field and be part of a pre-game ceremony at the Cubs-Nationals game, as well as throw out the first pitch and join Ron in singing “Take Me Out To The Ballgame” during the seventh inning stretch. He will also present a check to the JDRF in the amount of \$250,000; and

WHEREAS, the State of Illinois is extremely proud of Bill Holden for his tremendous efforts on behalf of juvenile diabetes research, and we commend him for the outstanding dedication he’s displayed over the past six months. With that in mind, I am proud to be signing House Bill 1581 in conjunction with Bill’s arrival, which creates an Income Tax check-off to fund diabetes research, and requires the Department of Human Services to make grants to public or private entities in Illinois that fund diabetes research, with at least 50 percent of those funds going to entities that conduct research for juvenile diabetes:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim Friday, July 1, 2005 as “**WILD**” **BILL HOLDEN DAY** in Illinois, and encourage all citizens to join in recognizing Bill’s exceptional work to help find a cure for diabetes.

Issued by the Governor July 1, 2005.

Filed by the Secretary of State July 1, 2005.

ILLINOIS ADMINISTRATIVE CODE

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