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Editor's Note #1: The Administrative Code Division is now accepting filings of the Regulatory Agenda's. Any submissions after June 26 will not be published.

Editor's Note #2: The Administrative Code Division has now made the Illinois Register available on a FTP (File Transfer Protocol) site for the subscribers that received the publication by email. If you have not received your notification about this change, please contact the division at (217) 782-4414 for assistance.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Determining Special Education Per Capita Tuition Charge

2) Code Citation: 23 Ill. Adm. Code 130

3)

Section Number:	Proposed Action:
130.10	Amendment
130.20	Amendment
130.30	Amendment
130.40	Amendment
130.45	Amendment

4) Statutory Authority: 105 ILCS 5/14-7.01

5) A Complete Description of the Subjects and Issues Involved: This rulemaking results from the comprehensive review of the agency's rules. It chiefly includes revisions designed to simplify and clarify the language, as well as various technical updates in statutory citations and rule-related style.

One noteworthy policy change is also presented. In Section 130.10, a "program" will now be defined in a way that focuses on subsets of services that are designated by local agencies as meeting the common needs of an identified group of students. For purposes of State reimbursement (but not for purposes of inter-district billing), this change will mean that local agencies will generally be precluded from combining all their costs related to special education and terming that entire combination one "program". The result of this change is that reimbursement for students who are not extraordinarily expensive to serve will no longer be potentially inflated by the cost of students who are very expensive to serve.

While this revision more accurately reflects the costs of educating a child with special needs, it is also likely to result in lower amounts of reimbursement in some cases. However, other proposed changes are intended to offset some of this negative effect. Section 130.30 discusses the varying bases for allocation of several categories of allowable expenditures into per-capita amounts that would be included in a claim for reimbursement. Changes in subsections (e) and (f) provide greater flexibility in allocating costs for social work, psychological services, and speech pathology and audiology services by dividing those costs only by the number of special education pupils, rather than by the number in the entire student population. Similarly, changes in subsections (g) and (h) will permit division of the cost for all special education administrative services just by the number of special education pupils rather than by the total number.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

12) Time, Place, and Manner in which interested persons may comment on this rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (S-493)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2005

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

PART 130
DETERMINING SPECIAL EDUCATION PER CAPITA TUITION CHARGE

Section
130.10 Definitions
130.20 Applicability
130.30 Allowable Expenditures for Determining Per Capita Cost
130.40 Expenditures Not Allowed in the Per Capita Cost
130.45 Calculation of Individual Cost
130.50 Tuition Billing

AUTHORITY: Implementing and authorized by Section 14-7.01 of the School Code [105 ILCS 5/14-7.01].

SOURCE: Adopted at 11 Ill. Reg. 5942, effective March 23, 1987; amended at 16 Ill. Reg. 9475, effective June 9, 1992; amended at 24 Ill. Reg. 4936, effective March 10, 2000; amended at 30 Ill. Reg. _____, effective _____.

Section 130.10 Definitions

"Average Daily Attendance" – The number of full-time equivalent days a pupil is in attendance in a program divided by the number of days school is in session.

"Average Daily Enrollment" – For an individual pupil, the number of days a pupil is enrolled in a program divided by the number of days a program is in session, multiplied by the percentage of the school day the pupil participates in the program. For a program, the Average Daily Enrollment is the total of the Average Daily Enrollment figures for all students enrolled in it.

"Days in Session" – The number of actual pupil attendance days reported on the final calendar for the school year.

"District Per Capita Tuition Charge" – District expenditures (including allowable depreciation) associated with providing education during the regular school term from local taxes and common school fund monies, calculated by deducting

revenues for various state categorical programs as shown on the district's annual financial statement filed in accordance with Section 3-15.1 of the School Code [105 ILCS 5/3-15.1], local user fees, and federal receipts, other than federal impaction aid, from the operating expense; then dividing the result by the annual average daily attendance of the district.

"Eligible Pupils" – All children with disabilities, as defined in Sections 14-1.02 and 14-1.03a of the School Code [105 ILCS 5/14-1.02 and 14-1.03a] and in 23 Ill. Adm. Code 226 (Special Education).

"IEP" – A pupil's individualized education program (see 23 Ill. Adm. Code 226).

"Local Education Agency" – A public educational agency at the local level that~~which~~ operates schools or contracts for educational services. This includes school districts, school districts providing services under a joint agreement pursuant to Section 10-22.31a of the School Code [105 ILCS 5/10-22.31a], educational service regions pursuant to Section 3A-1 of the School Code [105 ILCS 5/3A-1], educational (intermediate) service centers pursuant to Section 2-3.62 of the School Code [105 ILCS 5/2-3.62] and 23 Ill. Adm. Code 525 (Regional Offices of Education and Intermediate Services), public university laboratory schools pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], and governing boards formed pursuant to Section 10-22.31 or Section 3-15.14 of the School Code [105 ILCS 5/10-22.31 or 3-15.14].

"Local Educational Facilities" – Buildings, including sites and site improvements, operated by a local education agency.

"Program" – For purposes of the reimbursement of claims under Sections 14-7.02b and 14-7.03 of the School Code [105 ILCS 5/14-7.02b and 14-7.03], a~~Any~~ combination of special education instructional services, supportive services, supplies, materials, physical plant adjustments, and other special educational facilities designated by a local education agency as meeting the common educational needs of a group of students with disabilities that~~constituting a specific special education program for purposes of this Part (e.g., behavior disordered, learning disabled, mentally impaired) which~~ also conforms to the requirements set forth in 23 Ill. Adm. Code~~Section~~ 110.50(c)(11) ~~of the~~ (Program Accounting Manual) ~~(23 Ill. Adm. Code 110)~~.

"Special Education" – Those instructional programs, supportive services, supplies, materials, physical plant adjustments, and other special educational

facilities described in Article 14 of the School Code [105 ILCS 5/Art. 14] and 23 Ill. Adm. Code 226~~ (Special Education),~~ that~~which~~ modify, supplement, support, or are in place of the standard educational program of the public school, and that~~which~~ are needed to meet the needs of eligible pupils.

"Special Educational Facility and Services" – See~~For the purpose of this Part, this term has the meaning given it in~~ Section 14-1.08 of the School Code [105 ILCS 5/14-1.08].

"Special Education Per Capita Cost" – The average expenditure per eligible pupil incurred by a local education agency in the implementation and maintenance of each special education program,~~ (e.g. behavior disordered, learning disabled, mentally impaired). Such per capita costs shall be~~ computed by dividing the allowable program expenditures by the average daily enrollment of all eligible participating pupils in the manner prescribed in this Part.

"Special Education Pupil Transportation" – Those transportation services that~~which~~ are in addition to the regular pupil transportation services provided by the local education agency, and that~~which~~ are required and provided in accordance with the provisions of 23 Ill. Adm. Code 226~~ (Special Education)~~.

"Special School" – An educational setting that~~which~~ is established by the local education agency exclusively to meet the needs of exceptional pupils.

"The School Code" – The School Code [105 ILCS 5].

"Time in Special Education" – For purposes of the reimbursement of claims under Sections 14-7.02b and 14-7.03 of the School Code, the percentage that reflects the amount of time for which a pupil receives special education services under his or her IEP at the time of entry into the special education program as compared to the total amount of time in the pupil's regular instructional day. The instructional school day is not "bell to bell" and should omit passing periods, lunch, and recess unless the pupil's IEP requires support during those times.

"Total Number of Pupils Enrolled" – The total enrollment of the local education agency for the school year, as reported to the State Board of Education on the Fall Enrollment and Housing Report.

"Total Number of Special Education Pupils Enrolled" – The total number of pupils reported to the State Board of Education as being enrolled in special

education programs on December 1 of a particular year. For special education joint agreements and regional programs, this is the sum of all member districts' enrolled special education pupils as of December 1.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 130.20 Applicability

This Part applies~~These rules apply~~ to:

a) any local education agency~~,~~ whose special educational facilities and services are attended by ~~exceptional~~ pupils with disabilities from another local education agency and that~~,~~ ~~which~~ does not bill using the District Per Capita Tuition Charge and instead enters into a contractual agreement that~~which~~ provides for tuition charges as authorized under Section 14-7.01 of the School Code [105 ILCS 5/14-7.01]; and ~~to~~

b) the calculation of claims under Section 14-702b or~~Sections 14-7.02a and/or~~ 14-7.03 of the School Code.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 130.30 Allowable Expenditures for Determining Per Capita Cost

a) All local education agencies operating special educational facilities shall maintain evidence of their accountability for funds as prescribed in the~~23 Ill. Adm. Code 110 (~~ Program Accounting Manual (Manual)~~)~~.

b) Accounting dimensions used to record expenditures used in calculating~~computing~~ per capita costs shall ~~minimally~~ include at least the fund, fiscal year, four-digit function number, and object. Functions and objects must correspond to and be traceable to the official budget and annual financial report of the local education agency.

c) Expenditures for equipment necessary for the operation of a special educational facility either shall be included in the expenditures in the year of purchase, if the total cost is less than $2500, or shall be depreciated on a five-year schedule, if the total cost is $2500 or more. If equipment is purchased solely for the benefit of one pupil and billed in that manner, the district billed is the owner of the equipment.

d) Per capita instructional costs recorded in functions 1201-1220 of the Manual~~1201-1239~~ shall be calculated~~computed~~ by dividing the allowable expenditures, minus individual student costs such as individual aides, by the average daily enrollment of the pupils served in the specific special education program.

e) Per capita expenditures~~Expenditures for pupil support services shall be~~ recorded in the functional accounts ~~2110 (Attendance and Social Work Services),~~ 2120 (Guidance Services), 2130 (Health Services), ~~2140 (Psychological Services), 2150 (Speech Pathology and Audiology Services),~~ 2210 (Improvement of Instruction), and 2220 (Educational Media Services) as specified in the~~23 Ill. Adm. Code 110 (Program Accounting~~ Manual~~)~~ shall be calculated as provided in this subsection (e).

1) Expenditures in each functional area shall be allocated~~separated~~ as follows:

A) All expenditures for specific special education programs;

B) All expenditures that~~which~~ are incurred in support of all eligible pupils and that~~which~~ cannot be directly allocated to a specific special education program as required in subsection (e)(1)(A) of this Section; and

C) All expenditures that~~which~~ are incurred in support of the general pupil population, including eligible pupils.

2) Per capita pupil support services costs for a specific special education program shall be calculated~~computed~~ by dividing the allowable expenditures by the average daily enrollment of the pupils served in the program.

3) Per capita pupil support services costs incurred in support of all eligible children shall be calculated~~computed~~ by dividing the allowable expenditures by the total number of special education pupils enrolled.

4) Per capita pupil support services costs incurred in support of the general pupil population shall be calculated~~computed~~ by dividing the allowable expenditures by the total number of pupils enrolled.

f) Per capita expenditures recorded in the functional accounts 2113 (Social Work Services), 2140 (Psychological Services), and 2150 (Speech Pathology and Audiology Services) as specified in the Manual shall be calculated by dividing the allowable expenditures by the total number of special education pupils enrolled.

g) Per capita expenditures~~Expenditures~~ for general administrative services ~~shall be~~ recorded in the functional accounts 2310 (Board of Education Services), 2320 (Executive Administrative Services), 2330 (Special Area Administrative Services), 2410 (Office of the Principal Services), 2510 (Direction of Business Support Services), 2520 (Fiscal Services), 2570 (Internal Services), and 2600 (Support Services Central) as specified in the~~23 Ill. Adm. Code 110 (Program Accounting~~ Manual~~) and~~ shall be calculated by dividing the allowable expenditures by the total number of pupils enrolled.~~separated as follows:~~

~~1) Expenditures for special education administration;~~

~~2) Expenditures for general administration; and~~

~~3) Expenditures for special education administration for group programs operated under the provisions of Section 14-7.03 of the School Code [105 ILCS 5/14-7.03].~~

h~~g~~) Per capita special education administration costs recorded in the functional account 2330 (Special Area Administrative Services)~~incurred in support of eligible children~~ shall be calculated~~computed~~ by dividing the allowable expenditures by the total number of special education pupils enrolled.

~~h) Per capita general administration costs incurred in support of the general pupil population shall be computed by dividing the allowable expenditures by the total number of pupils enrolled.~~

i) Operation and Maintenance

1) Expenditures for the operation and maintenance of buildings owned by a local education agency shall be allocated to each program according to the number of classrooms used and the average cost per classroom. The average cost per classroom shall be identified by dividing the total amount of expenditures for operations and maintenance, excluding capital outlay, by the total number of classrooms~~reported to the State Board of Education on the Facility Inventory Report~~.

2) If a privately owned building is used, the portion of the operation and maintenance costs attributable to a specific program shall be determined by dividing the square footage of the portion of the building so used by the square footage of the building or buildings for which operation and maintenance costs are incurred.

j) Depreciation and Rent

1) Depreciation of physical facilities owned by the local education agency shall be calculated using the rate provided in Section 14-7.01 of the School Code ~~[105 ILCS 5/14-7.01]~~. The local education agency may not rent facilities from itself. The depreciation rate specified in Section 14-7.01(f) of the School Code must be applied to all owned facilities. Operations and maintenance costs for owned facilities may be claimed as provided in subsection (i) of this Section.

2) If the local educational facility is rented by the local education agency, the actual rent paid for the physical facilities is to be divided by the average daily enrollment of the pupils served within the facility. If the rented facility is used for both instructional and administrative functions, the square footage used for instruction shall be divided by the total square footage rented. The result of this division shall be multiplied by the rental fee paid to determine the portion of rent applicable to the program.

k) Interest paid for costs of operating a program approved pursuant to Section 14-7.03 of the School Code shall be segregated in the accounts of the local agency and claimed in total. Per capita interest costs shall be computed by dividing the other interest expenditures recorded in function 5100, exclusive of interest for capital expenditures, by either:

1) the total number of pupils enrolled, if the local education agency serves both special and regular education students; or

2) the total number of special education pupils enrolled, if the local education agency serves only special education students.

l) Twenty percent of the total cost incurred for special education pupil transportation, or such total cost minus reimbursement received during the current year from the State of Illinois under Section 14-13.01(b) of the School Code [105

ILCS 5/14-13.01(b)], whichever is less, may be included in the computation of the per capita cost. However, for pupils claimed under Section 14-7.03 of the School Code, one hundred percent of the transportation costs shall be included in the computation and not claimed for special education pupil transportation reimbursement.

m) Non-special education (i.e., regular) program costs charged to other districts must be calculated in accordance with Section 10-20.12a of the School Code [105 ILCS 5/10-20.12a] and billed to the district of residence based on a percentage of the student's time spent in non-special education classes.

n) Social Security and Illinois Municipal Retirement Fund contributions by the employer; the amounts so recovered shall be returned to the funds~~fund(s)~~ from which the expenditures were made.

o) Expenditures for liability insurance; the amounts ~~so~~ recovered shall be returned to the funds~~fund(s)~~ from which the expenditures were made.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 130.40 Expenditures Not Allowed in the Per Capita Cost

a) Food service expenditures may not be claimed for reimbursement under Section 14-7.02a [105 ILCS 5/14-7.02a] or Section 14-7.03 of the School Code ~~[105 ILCS 5/14-7.02a or 14-7.03]~~, unless they are directly related to instructional methodology or techniques, for example in homemaking, cooking, or consumer education courses. However, food service expenditures may be billed to the district of residence of a pupil served.

b) Expenditures from revenue received from state reimbursement during the current year for special education personnel under Section 14-13.01 of the School Code, allocated to each program based on the number of positions in the program divided by the number of positions claimed for special education personnel reimbursement.

c) Expenditures that~~which~~ are reimbursed from federal sources, except for health care services as provided in Section 14-7.04 of the School Code [105 ILCS 5/14-7.04]; the amount of federal reimbursement for such services need not be deducted.

d) Expenditures for life-safety building improvements or asbestos abatement.

e) Expenditures classified (see ~~23 Ill. Adm. Code 110,~~ Table D of the Program Accounting Manual) as Capital Outlay (object code 500), except specialized equipment purchased for the specific special education program, which may be included based upon a depreciation schedule of five years.

f) Expenditures for purchased services (object code 300) other than those recorded in accounts 1201-1220~~1201-1239~~ (Instruction), 2113 (Social Work Services), 2130 (Health Services), 2140 (Psychological Services), 2150 (Speech Pathology and Audiology Services), 2210 (Improvement of Instruction), 2220 (Educational Media Services), and 2540 (Operation and Maintenance).

g) Expenditures applicable to one student only.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 130.45 Calculation of Individual Cost

a) The individual cost for a specific special education pupil is the per capita cost of the specific special education program in which the pupil is enrolled plus the result of multiplying:

1) the serving district's per capita tuition rate as computed per Section 10-20.12a of the School Code, by

2) the percentage of the school week the pupil spends in the regular education program, as stated in the pupil's Individualized Education Program (IEP) at the time the pupil entered the specific special education program for the school year being billed or claimed, by

3) the average daily enrollment of the pupil.

b) When the local education agency providing educational services also provides special transportation services to the pupil, the serving local education agency may calculate the pupil's transportation cost and add this transportation cost to the tuition bill. These transportation costs, paid by the district of residence, may not be claimed by the serving local education agency under Section 14-13.01(b) of the School Code. The district of residence may claim 20 percent of the transportation cost for the pupil when the pupil's educational costs are claimed for

reimbursement under Section 14-7.02b~~14-7.02a~~ of the School Code. However, if the pupil is claimed for reimbursement under Section 14-7.03 of the School Code, 100 percent of the transportation cost may be claimed.

c) The individual costs not included in the per capita cost for the program may be included in the individual cost. These costs are limited to:

1) an individual aide for one pupil~~or two pupils~~;

2) special equipment for one ~~individual~~ pupil;

3) specific, unique related services provided for a pupil that~~which~~ are not provided to other pupils in the program, that~~which~~ are not a part of the normal program service configuration, and whose costs are not included in the special education per capita cost for the program; and

4) legal costs associated with students eligible, served, and claimed under Section 14-7.03 of the School Code.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Transitional Bilingual Education

2) Code Citation: 23 Ill. Adm. Code 228

3)

Section Number:	Proposed Action:
228.10	Amendment
228.15	Amendment
228.20	Amendment
228.25	Amendment
228.30	Amendment
228.40	Amendment
228.50	Amendment
228.60	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.39(1)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking results from the comprehensive review of the agency's rules. It includes many changes that simply eliminate redundant or unnecessary language, as well as reorganization of the text so that related provisions will be grouped together. For example, identical sets of programmatic requirements that have previously been stated in both Sections 228.30 and 228.40 have now been grouped under subheadings and stated only once. Along the same lines, language that addresses matters explicitly covered either in statute or in other ISBE rules is being deleted. On the other hand, several insertions have been made to emphasize the relationships among various portions of the rules. These changes streamline the rules and do not institute new policy. Several provisions have also been rewritten slightly to avoid giving the impression that each district must offer a part-time program in addition to a full-time program. See Section 228.25(a) and Section 228.40(c)(3).

Other revisions do reflect changes of a substantive nature. Chief among these are the introduction of the WIDA-ACCESS Placement Test (W-APT), a screening instrument that can be used year-round to identify students with limited English proficiency (Section 228.15) and the requirement for reliance on a single State-prescribed test as the annual examination of English language proficiency (Section 228.25). Use of this instrument, known as the "ACCESS for ELLs™", conforms to the Title III requirements of the No Child Left Behind Act. The existing version of the rules has allowed for several choices with respect to the annual examination. The discussion of these various options and how those disparate scores must be treated can now be deleted.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

In the interest of providing appropriate and high-quality services to students in bilingual education programs, Section 228.30(c) includes a proposed new requirement that administrators in transitional bilingual education (TBE) programs hold either an approval or an endorsement in bilingual education, and that those responsible for transitional programs of instruction (TPI) hold a credential in either bilingual education or English as a Second Language (ESL). An exception is made for those in programs serving fewer than 200 students, requiring targeted professional development on an annual basis instead of a specific approval or endorsement. The two-hour annual requirement was chosen to be reasonable in proportion to the total of 100 hours required for renewal of the administrative certificate every five years. (It should be noted that each administrator must hold either an administrative certificate or a teaching certificate endorsed for supervision. Although the text is new in this location, this is a fundamental requirement of long standing and does not originate with this rulemaking. See 23 Ill. Adm. Code 1.Appendix B.)

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (S-493)
Springfield, Illinois 62777

(217) 782-5270

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2005

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 228
TRANSITIONAL BILINGUAL EDUCATION

Section
228.10 Definitions
228.15 Identification of Eligible Students
228.20 Public School Bilingual Census
228.25 Program Options, Placement, and Assessment
228.30 Establishment of Programs
228.40 Students' Participation; Records~~General Program Requirements~~
228.50 Program Plan Approval and Reimbursement Procedures
228.60 Enforcement

AUTHORITY: Implementing Article 14C and authorized by Section 2-3.39(1) of the School Code [105 ILCS 5/Art. 14C and 2-3.39(1)].

SOURCE: Adopted May 28, 1976; codified at 8 Ill. Reg. 5176; Part repealed, new Part adopted at 11 Ill. Reg. 5969, effective March 23, 1987; amended at 17 Ill. Reg. 104, effective December 18, 1992; amended at 26 Ill. Reg. 898, effective January 15, 2002; amended at 27 Ill. Reg. 9996, effective June 20, 2003; amended at 30 Ill. Reg. _____, effective _____.

Section 228.10 Definitions

"Bilingual Education Teacher" means a teacher who holds a Transitional Bilingual Certificate endorsed for teaching in a language other than English and issued by the State Board of Education in accordance with 23 Ill. Adm. Code 25.90~~ (Certification)~~; or a teacher who possesses a valid Illinois certificate issued pursuant to the provisions of 23 Ill. Adm. Code 25 (Certification), and a Statement of Approval issued by the State Board of Education in accordance with the provisions of 23 Ill. Adm. Code 1~~1.780 and 1.781~~ (Public Schools Evaluation, Recognition and Supervision; see Sections 1.780 and 1.781).

"English as a Second Language (ESL)" means specialized instruction designed to assist students whose home language is other than English in attaining English language proficiency. ESL instruction includes skills development in listening,

speaking, reading, and writing. (ESL is not to be confused with English language arts as taught to students whose home language is English.)

"Home Language" means that language normally used in the home by the student and/or by the student's parents or legal guardians.

"Individual Student Language Assessment" means a procedure which determines a student's listening, speaking, reading (including comprehension), and writing skills in English.

"Standard School Program" means the educational program offered by the local school district to the majority of its students ("general education").

"Students of~~Of~~ Limited English Proficiency" means students, whether born in the United States or born elsewhere, whose native tongue or language background is a language other than English and whose difficulties in ~~of non-English background whose aural comprehension,~~ speaking, reading, ~~or~~ writing, or understanding ~~proficiency in~~ English may be sufficient to deny them~~is below the average English proficiency level of students of the same age and/or grade whose first or home language is English~~:

the ability to meet the State's proficient level of achievement on State assessments;

the ability to successfully achieve in classrooms where the language of instruction is English; or

the opportunity to participate fully in the school setting.

"Students of~~Of~~ Non-English Background" means students whose native language is other than English or students who come from homes where a language other than English is spoken in daily interaction, either by the students themselves or by their parents or legal guardians.

"Teacher of English as a Second Language" means a teacher who meets the requirements set forth in 23 Ill. Adm. Code 1.782~~(Public Schools Evaluation, Recognition and Supervision)~~; a teacher who possesses a special~~Standard Special~~ certificate endorsed for teaching ESL, issued by the State Board of Education in accordance with 23 Ill. Adm. Code 25~~(Certification)~~; or a teacher who possesses a valid Illinois certificate and a Statement of Approval for teachers of ESL, issued

by the State Board of Education pursuant to 23 Ill. Adm. Code 1.780, 1.781, and 1.782 ~~(Public Schools Evaluation, Recognition and Supervision)~~.

~~"Transitional Bilingual Education Program" means a program which must be provided by a school district when there are within an attendance center 20 or more students of the same non-English language background identified as below average in English proficiency. A student's program can be either full-time or part-time, depending on the level of the student's proficiency in English. The school district's program must meet the standards set forth in Section 228.30(a) of this Part.~~

~~"Transitional Program of Instruction" means a program designed by a school district when there are within an attendance center 19 or fewer students of the same non-English language background identified as below average in English proficency. The school district's program must meet the standards set forth in Section 228.30(b) of this Part.~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 228.15 Identification of Eligible Students

a) Each school district shall administer a home language survey with respect to each student entering the district's schools for the first time, for the purpose of identifying students of non-English background. The survey shall include at least the following questions, and the student shall be identified as having a non-English background if the answer to either question is yes:

1) Whether a language other than English is spoken in the student's home and, if so, which language; and

2) Whether the student speaks a language other than English and, if so, which language.

b) The home language survey shall be administered in English and, if feasible, in the student's home language.

c) The home language survey form shall provide spaces~~a space~~ for the date and the signature of the student's parent or legal guardian.

d) The completed home language survey form shall be placed into the student's

temporary record as defined in 23 Ill. Adm. Code 375 (Student Records).

e) ~~It shall be the duty of each school district conducting home language surveys to use its best efforts in seeking out children believed to be of limited English proficiency who are resident within such district but are not enrolled in a private school within the district.~~

~~f)~~ The district shall, using an assessment instrument prescribed by the State Superintendent of Education, screen the English~~administer an individual~~ language proficiency of~~assessment to~~ each student identified through the home language survey as having a non-English background. This assessment shall take place within 30 days after~~four weeks of~~ the student's enrollment in the district, for the purpose of determining the student's eligibility for bilingual education services and, if eligible, the appropriate placement for the student.

1) A district may rely upon a student's score attained on the prescribed screening instrument or on the assessment instrument prescribed under Section 228.25(c) of this Part, if either is available from another school district or another state, provided that the score was achieved no more than 12 months prior to the district's need to assess the student's proficiency in English for purposes of eligibility and placement.

2) Each student whose score on the prescribed screening instrument is identified as not "proficient" as defined by the State Superintendent of Education shall be considered to have limited English proficiency and therefore to be eligible for bilingual education services. However, even if the student scores at the "proficient" level, the school district may consider additional indicators such as the results of criterion-referenced or locally developed tests, teachers' evaluations of performance, samples of a student's work, or information received from family members and school personnel in order to determine whether the student's proficiency in English is limited and the student is eligible for services.

3) Students who, based on review of assessment scores and other evidence such as that outlined in subsection (e)(2) of this Section, are judged to be of limited English proficiency shall be eligible for, and shall be placed into a program of, bilingual education services.

~~g)~~ ~~Individual language proficiency assessments shall be conducted in accordance with the following requirements.~~

~~1) A nationally normed test of English-language proficiency shall be administered to each student who is old enough to take such a test. Each such test shall include measures of oral language skills (listening and speaking). Each such test to be administered to a student in grade 2 or above shall also include measures of reading and writing proficiency. Each student who scores below the 50th percentile on such a test (or, where test results are not expressed as percentile scores, below the proficiency level comparable to the 50th percentile) shall be considered as having limited English proficiency and shall be eligible for bilingual education services.~~

~~2) In cases where no nationally normed English proficiency measure can be administered, and for all students of non-English language background who score at or above the 50th percentile or the equivalent on the nationally normed test used, the school district shall also consider other indicators such as the results of criterion-referenced or locally developed tests, teachers' evaluations of performance, samples of a student's work, and/or information received from family members and school personnel in identifying limited English proficiency and determining eligibility for bilingual education services.~~

~~3) Students who, based on review of evidence such as that outlined in subsection (2) above, are judged to be unable to perform successfully in classes where instruction is given only in English or more than one year behind the average performace of students (of comparable age/grade) in the district in any subject as identified in Section 228.30 (a)(1)(A) of this Part shall be considered as having limited English proficiency and shall be eligible for bilingual education services.~~

f)~~h)~~ The parent or guardian of any child resident in a school district who has not been identified as having limited English proficiency may request the district to determine whether the~~such~~ child should be considered for placement in a bilingual education program, and the school district shall make that~~such~~ determination upon request, using the process described in this Section. A determination contested by a parent or legal guardian may be appealed to the regional superintendent of schools for the region~~Superintendent of the Educational Service Region~~ in which the district is located, pursuant to the provisions of Section 3-10 of the School Code [105 ILCS 5/3-10]~~(Ill. Rev. Stat. 1991, ch. 122, par. 3-10)~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 228.20 Public School Bilingual Census

a) *No later than the first day of March of each year, every school district shall* submit a bilingual census report for that school year to the State SuperintendentBoard of Education (Section 14C-3 of the School Code [105 ILCS 5/14C-3]; Ill. Rev. Stat. 1991, ch. 122, par. 14C-3). The bilingual census report shall be submitted on forms provided by the SuperintendentBoard and shall include:

1) the number of students of non-English background in each attendance center, as identified via the home language survey;

2) the number of those students who have been identified as having limited English proficiency based on the results of the State-prescribed assessment and other factors discussed in Section 228.15(e) or Section 228.25(c) of this Part; and

3) the home languages, ages, and grade or achievement levels of the students identified as having limited English proficiency.

b) A district may use the number of students who have been identified in its census report as having limited English proficiency and who are thus eligible for bilingual education services as a preliminary count for the purpose of submitting a program application pursuant to Section 228.50 of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 228.25 Program Options, Placement, and Assessment

a) *When an attendance center has an enrollment of 20 or more limited English proficient students of the same language classification, the school district must establish a transitional bilingual education (TBE) program* for each language classification represented by thosesuch students (Section 14C-3 of the School Code). A further assessment of those students to determine their specific programmatic needs or for bilingual instruction and for placement in either a full-time or a part-time program mayshall be conducted.

b) *When an attendance center has an enrollment of 19 or fewer students of limited English proficiency* ~~and~~ from any single non-English language, the school district shall conduct an individual student language assessment to determine each student's need for native language instruction and may provide a transitional bilingual program in the non-English languages~~language(s)~~ common to such students. If the district elects not to provide a transitional bilingual program, the district ~~or~~ shall provide a locally determined transitional program of instruction (TPI) for those students. (Section 14C-3 of the School Code~~.~~)

c) ~~Districts shall consider the following factors when determining an individual student's full-time or part-time educational program needs: language assessement in English and, if available, in the student's home language; academic history and achievement levels; age; cultural background; handicapping conditions, if any; and any other factors that would assist the district in designing an instructional program appropriate to the student's needs.~~

~~d)~~ *Annual Examination*

1) *School districts must annually assess the English language proficiency, including aural comprehension (listening), speaking, reading, and writing skills, of all students enrolled in programs* ~~*on an annual basis*~~ (Section 14C-3 of the School Code), using an assessment prescribed by the State Superintendent of Education. This assessment shall be administered, during a testing window designated by the State Superintendent, for the purpose of determining individual students' continuing need and eligibility for bilingual education services.

~~A)~~ ~~Districts may comply with this requirement by administering the same nationally normed test(s) of English-language proficiency used to identify students eligible for bilingual education services.~~

~~B)~~ ~~Districts may also select instruments other than those used to identify eligible students. For each such other instrument used, the district shall provide evidence in its annual application (see Section 228.50 of this Part) that the score used as an exit criterion represents a level of English-language proficiency comparable to that represented by the 50th-percentile score or equivalent on the nationally normed test used in eligibility determinations.~~

2) Each student whose score on the English language proficiency assessment

is identified as "proficient" may be considered eligible to exit the program of bilingual education services. However, the school district may also consider other indicators, such as those listed in Section 228.15(e)(2) of this Part, to determine whether individual students continue to exhibit limited English proficiency and remain eligible for bilingual education services, subject also to the provisions of Section 14C-3 of the School Code. ~~Students who score at or above the 50th percentile (or, where test results are not expressed as percentile scores, the proficiency level comparable to the 50th percentile) on the nationally normed test of English language proficiency chosen for their respective ages or grade levels by the district and described in the district's program application shall be eligible to exit from the bilingual education program as provided in Section 228.30(a)(4) of this Part.~~

3) Beginning in 2007, each student who is not enrolled in a program under this Part but who has been identified as having limited English proficiency at any time since 2006 shall be required to participate in the annual examination each year until he or she achieves a "proficient" score. ~~School districts shall maintain records of individual test scores in accordance with the provisions of 23 Ill. Adm. Code 375 (Student Records).~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 228.30 Establishment of Programs

a) Administrative Provisions

1) Program Facilities – *Programs shall be located in regular public school facilities rather than in separate facilities*. (Section 14C-6 of the School Code [105 ILCS 5/14C-6]) If such a location is not feasible, the substitute location shall be comparable to those made available to a majority of the district's students with respect to space and equipment. If housed in a facility other than a public school (including a charter school), the school district shall provide a written explanation in its annual application to the State Superintendent of Education as to why the use of a public school building is not feasible.

2) Course Credit – Students enrolled in approved programs shall receive full credit for courses taken in such programs, which shall count toward

promotion and fulfillment of district graduation requirements. Courses in ESL shall count toward English requirements for graduation. Students who change attendance centers or school districts shall do so without loss of credit for coursework completed in the program.

3) *Extracurricular Activities – Each district shall ensure that students enrolled in programs shall have the opportunity to participate fully in the extracurricular activities of the public schools in the district.* (Section 14C-7 of the School Code [105 ILCS 5/14C-7])

4) Inclusion of Students Whose First or Home Language is English – Students whose first or home language is English may be included in a program under this Part provided that all students of limited English proficiency are served.

5) Joint Programs – A school district may join with one or more other school districts to provide joint programs or services in accordance with the provisions of Section 10-22.31a of the School Code [105 ILCS 5/10-22.31a]. The designated administrative agent shall adhere to the procedures contained in 23 Ill. Adm. Code 110 (Program Accounting Manual) as they pertain to cooperative agreements.

6) Preschool and Summer School – *A school district may establish preschool and summer school programs for students of limited English proficiency, or join with other school districts in establishing such programs. Summer school programs shall not replace programs required during the regular school year.* (Section 14C-11 of the School Code [105 ILCS 5/14C-11])

b) Instructional Specifications

1) Student-Teacher Ratio – The student-teacher ratio in the ESL and native language components of programs shall not exceed 90% of the average student-teacher ratio in general education classes for the same grades in that attendance center.

2) Grade-Level Placement – *Students enrolled in a program of transitional bilingual education shall be placed in classes with students of approximately the same age or grade level*, except as provided in subsection (b)(3) of this Section. (Section 14C-6 of the School Code)

3) Multilevel Grouping – *If students of different age groups or educational levels are combined in the same class, the school district shall ensure that the instruction given each student is appropriate to his/her age or grade level.* (Section 14C-6 of the School Code) Evidence of compliance with this requirement shall be:

A) individualized instructional programs; or

B) grouping of students for instruction according to grade level.

4) Language Grouping – School districts may place students of limited English proficiency who have different home languages in the same class, provided that, in classes other than ESL:

A) instructional personnel or assistants representing each of the languages in the class are used; and

B) the instructional materials are appropriate for the languages of instruction.

5) Program Integration – *In courses of subjects in which language is not essential to an understanding of the subject matter, including, but not necessarily limited to, art, music, and physical education, students of limited English proficiency shall participate fully with their English-speaking classmates.* (Section 14C-7 of the School Code)

c) Administrators

1) Except as provided in subsection (c)(3) of this Section, any person designated to administer a TBE program must hold a valid administrative certificate or supervisory endorsement issued by the State Board of Education in accordance with applicable provisions of 23 Ill. Adm. Code 25 (Certification) and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision) and must hold the bilingual approval or endorsement.

2) Except as provided in subsection (c)(3) of this Section, any person designated to administer a TPI program must hold a valid administrative certificate or supervisory endorsement issued by the State Board of

Education in accordance with applicable provisions of 23 Ill. Adm. Code 25 and 1 and must hold the bilingual or ESL approval or endorsement.

3) A person designated to administer a TBE or TPI program in a district with fewer than 200 TBE/TPI students shall be exempt from the requirement for bilingual or ESL approval or endorsement, provided that he or she annually completes two hours of professional development specifically designed to address the needs of students with limited English proficiency. Documentation for this professional development activity shall be made available to a representative of the State Board of Education upon request.

d) In-Service Training for Staff

1) Each school district having a program shall annually plan in-service training activities for the certificated and noncertificated personnel involved in the education of students of limited English proficiency. This plan shall be included in the district's annual application and shall be approved by the State Superintendent of Education if it meets the standards set forth in subsections (d)(2) and (d)(3) of this Section.

2) Program staff beginning their initial year of service shall be involved in training activities that will develop their knowledge of the requirements for the program established under this Part and the employing district's relevant policies and procedures.

3) Training activities shall be provided to all bilingual program staff at least twice yearly and shall address at least one of the following areas:

A) current research in bilingual education;

B) content-area and language proficiency assessment of students with limited English proficiency;

C) research-based methods and techniques for teaching students with limited English proficiency;

D) research-based methods and techniques for teaching students with limited English proficiency who also have disabilities; and

E) the culture and history of the United States and of the country, territory or geographic area that is the native land of the students or of their parents.

e) Specific Requirements for Transitional Bilingual Education (TBE) Programs

1) Each full-time TBE program shall consist of at least the following components (Section 14C-2 of the School Code)~~*Program components of a full-time program – a full-time Transitional Bilingual Education Program shall include the following components* (Section 14C-2 of the School Code; Ill. Rev. Stat. 1991, ch. 122, par. 14C-2)~~:

A) *Instruction in subjects which are either required by law* (see 23 Ill. Adm. Code 1) *or by the student's school district, to be given in the student's home language and in English; core subjects such as math, science and social studies must be offered in the student's home language;*

B) *Instruction in the language arts in the student's home language and in English as a second language; and*

C) *Instruction in the history and culture of the country, territory or geographic area which is the native land of the students or of their parents and in the history and culture of the United States.*

2) Programs may also include other services, modifications, or activities such as counseling, tutorial assistance, learning settings, or special instructional resources that will assist students of limited English proficiency in meeting the Illinois Learning Standards (see 23 Ill. Adm. Code 1, Appendix D).

3)~~2)~~ ~~Program Structure for Part-Time Programs –~~ Students may be placed into~~, including kindergarten students in either full-day or half-day programs, are eligible for placement in~~ a part-time program~~ pursuant to the provisions of Section 228.25 (c) of this Part~~, or students previously placed in a full-time program may be placed in a part-time program, if ~~under the following conditions: A)~~an assessment of the student's English language skills has been performed in accordance with the provisions of either Section 228.15(e) or Section 228.25(c)~~Section 228.15 (f)~~ of this Part and the assessment results indicate that the student has sufficient proficiency in

English to benefit from a part-time program. However, district staff shall consider the student's score and his or her proficiency in the home language,; B)the student's prior performance, if any, in coursework taught exclusively in English, current academic performance, and other relevant factors such as age, disability, and cultural background in order to determine whether a full-time or a part-time program is appropriate. has been evaluated; and

C) a review of these areas shows a performance that is less than one academic year behind the average of students of the same grade level in the district, in all but one or two subject areas, so that instruction in ESL and subject area instruction in the home language may still be necessary.

4)3) Program Components of a Part-Time Program – A part-time program shallwill consist of components of a full-time program that are selected for a particular student those instructional programs and materials, supportive services (e.g., counseling, special instructional resources, or tutorial assistance), learning settings, and other educational services which modify, supplement, and support the standard educational program of the public school and which, based upon an assessment of the student's educational needs in accordance with the standards set forth in subsection (a)(2) of this Section, will provide daily instruction in the home language and in English. Each student's part-time program shall provide daily instruction in English and in the student's native language as determined by the student's needs.

4) *Duration of program participation*

A) *No school district shall withdraw a student prior to the completion of three years of program enrollment without written approval from the student's parents or legal guardians, and unless the student has received a score on the annual examination which* meets or exceeds the program exit criteria established pursuant to Section 228.25(d)(2) of this Part.

B) *A student may remain in the transitional bilingual education program longer than three years at the discretion of the school district and subject to the approval of the student's parents.*

~~C)~~ ~~*If a student, having been transferred from a program prior to three years, demonstrates, in the judgement of the school district, an inadequate command of English, said student may be re-enrolled in the program for the balance of the three years,* subject to the approval of the student's parents. (Section 14C-3 of the School Code.)~~

5) ~~Inclusion of Students Whose First or Home Language is English – Students whose first or home language is English may be included in a program of transitional bilingual education provided that all students of limited English proficiency are served.~~

~~6)~~ ~~Language Grouping – School districts may place in the same class in any program of transitional bilingual education students of limited English proficiency of different home languages, provided that, in classes other than ESL:~~

~~A)~~ ~~instructional personnel or assistants representing each of the languages in the class are used; and~~

~~B)~~ ~~the instructional materials are appropriate (e.g., grade level and subject matter) for the languages of instruction.~~

~~7)~~ ~~Personnel~~

~~A)~~ ~~Any person designated to administer the program by the district superintendent must hold a registered supervisory or administrative certificate or endorsement issued by the State Board of Education in accordance with applicable provisions of 23 Ill. Adm. Code 25 (Certification) and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision).~~

~~B)~~ ~~Standards for Teachers in Bilingual Education Programs – Bilingual teachers and teachers of English as a Second Language who provide instruction in transitional bilingual education programs shall meet applicable requirements of 23 Ill. Adm. Code 1.780 through 1.782 (Public Schools Evaluation, Recognition and Supervision).~~

~~C)~~ ~~Noncertificated Personnel – School districts may employ~~

~~noncertificated personnel to assist certified personnel teaching in transitional bilingual education programs approved pursuant to this Part. Noncertificated personnel may include instructional aides, who must possess a Statement of Approval issued by the State Board of Education pursuant to 23 Ill. Adm. Code 1.630 (Public Schools Evaluation, Recognition and Supervision). Other personnel who may be employed include translators, tutors, interpreters and such additional personnel as are determined to be needed by the school district to assist a student's early and effective transition to the regular school program.~~

~~D)~~ ~~Other Professional Staff – Districts providing programs may employ other professional staff to provide services to limited English proficient students. These professionals must hold certificates appropriate to their roles.~~

~~8)~~ *Parent and Community Participation – Each district or cooperative shall establish a parent advisory committee consisting of parents, legal guardians, transitional bilingual education teachers, counselors, and community leaders. This committee shall participate in the planning, operation, and evaluation of programs. The majority of committee members shall be parents or legal guardians of students enrolled in these programs. Membership on this committee shall be representative of the languages served in programs to the extent possible.* (Section 14C-10 of the School Code [105 ILCS 5/14C-10]~~; Ill. Rev. Stat 1991, ch. 122, par. 14C-10.~~) The committee shall:

A) meet at least four times per year;

B) maintain on file with the school district minutes of these meetings; and

C) review the district's annual program application to the State Superintendent~~Board~~ of Education.

f)~~b)~~ Specific Requirements for Transitional Program of Instruction (TPI)

1) Program Structure – The level of a student's proficiency in English, as determined by an individual student language assessment, will determine the structure of the student's instructional program.

2) Program Components – A transitional program of instruction must include instruction or other assistance in the student's home language to the extent necessary, as determined by the district on the basis of the student assessment required in Section 228.15(e) or Section 228.25(c)~~228.15 (f)~~ of this Part, to enable the student to keep pace with his/her age or grade peers in achievement in the core academic content areas. A transitional program of instruction may include, but is not limited to, the following components: instruction in ESL, language arts in the students' home language, and instruction in the history and culture of the country, territory, or geographic area that~~which~~ is the native land of the students or of their parents and in the history and culture of the United States.

~~3) Duration of Student Program Participation – A student of limited English proficiency shall remain in the program until an individual student language assessment determines that the student has achieved a level of English proficiency which meets or exceeds the district's exit criteria as provided in Section 228.25(d) of this Part.~~

~~4) Personnel~~

~~A) Any person designated by the district superintendent to administer the program must hold a registered supervisory or administrative certificate or endorsement issued by the State Board of Education pursuant to 23 Ill. Adm. Code 25 (Certification) and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision).~~

~~B) Standards for Teachers in Transitional Programs of Instruction – Bilingual teachers and teachers of English as a Second Language who provide instruction in transitional programs of instruction shall meet applicable requirements of 23 Ill. Adm. Code 1.780 through 1.782 (Public Schools Evaluation, Recognition and Supervision).~~

~~C) Noncertificated and Other Personnel – School districts may employ noncertificated personnel to assist certified personnel teaching in a transitional program of instruction. Such personnel may include instructional aides who possess a Statement of Approval issued by the State Board of Education pursuant to 23 Ill. Adm. Code 1.630. Other personnel who may be employed include~~

~~translators, tutors, interpreters and such additional personnel as are determined to be needed by the school district to assist a student's early and effective transition to the regular school program.~~

~~D) Other Professional Personnel – Districts providing a program may employ other professional staff to provide services to limited English proficient students. These professionals must hold certificates appropriate to their roles pursuant to 23 Ill. Adm. Code 25 (Certification).~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 228.40 Students' Participation; Records~~General Program Requirements~~

a) Notice of Enrollment and Withdrawal

1) *Notice of Enrollment − No later than 30 days after the beginning of the school year or 14 days after the enrollment of any student in a transitional bilingual education program in the middle of a school year, the school district shall notify by mail the parents or legal guardians of the student that their child has been enrolled in a transitional bilingual education program or a transitional program of instruction. The notice shall be in English and in the home language of the student and shall convey, in simple, nontechnical language,* all of the information called for in Section 14C-4 of the School Code [105 ILCS 5/14C-4].

2) *Withdrawal by Parents − Any parent or legal guardian whose child has been enrolled in a program shall have the absolute right to withdraw the child from the program immediately by submitting a written notice of his or her desire to withdraw the child to the school authorities of the school in which the child is enrolled or to the school district in which the child resides.* (Section 14C-4 of the School Code)

b) Unless terminated as set forth in subsection (a)(2) of this Section, the duration of a student's participation in a program under this Part shall be as set forth in Section 14C-3 of the School Code.

~~Program Standards~~

~~1) Course Credit – Students enrolled in approved programs shall receive full~~

~~credit for courses taken in such programs, which shall count toward promotion and fulfillment of district graduation requirements. Courses in ESL shall count toward English requirements for graduation. Students who change attendance centers or school districts shall do so without loss of credit for time spent in the program.~~

~~2)~~ ~~*Extracurricular Activities – Each district shall ensure that students enrolled in programs shall have the opportunity to participate fully in the extracurricular activities of the public schools in the district*~~.

~~3)~~ ~~*Program Integration – In courses or subjects in which language is not essential to an understanding of the subject matter, including, but not necessarily limited to, art, music, and physical education, students of limited English proficiency shall participate fully with their English-speaking classmates.*~~

~~4)~~ ~~Student-Teacher Ratio – The student-teacher ratio in the ESL and native language components of programs shall not exceed 90% of the average student-teacher ratio in regular classes in that attendance center.~~

~~5)~~ ~~*Grouping of Age-Grade Levels – Students enrolled in a program of transitional bilingual education shall be placed in classes with students of approximately the same age or grade level*~~, ~~except as provided in subsection (b)(6) of this Section.~~

~~6)~~ ~~*If students of different age groups or educational levels are combined in the same class, the school district shall ensure that the instruction given each student is appropriate to his/her age or grade level.*~~ ~~Evidence of compliance with this requirement shall be:~~

~~A)~~ ~~individualized instructional programs; or~~

~~B)~~ ~~class grouping and instruction by ability level.~~

~~7)~~ ~~*Program Facilities – Programs shall be located in regular public school facilities rather than in separate facilities. If such a location is not feasible, the substitute location*~~ ~~shall be comparable to those made available to a majority of the district's students with respect to space and equipment. If housed in a facility other than a public school, the school district shall provide a written explanation in its annual application to the~~

~~State Board of Education as to why the use of a public school building is not feasible.~~

~~e)~~ ~~*Staff Inservice*~~

~~1)~~ ~~Each school district having a program shall annually plan inservice training activities for the certificated and noncertificated personnel involved in the education of students of limited English proficiency. This plan shall be included in the district's annual application and shall be approved by the State Board of Education if it meets the standards set forth in subsections (c)(2) and (c)(3) of this Section.~~

~~2)~~ ~~Program staff beginning their initial year of service shall be involved in training activities that will develop their knowledge of basic bilingual program requirements and which shall include, but need not be limited to, the following: minimum program standards, district identification and assessment procedure, program design, and basic instructional techniques for teachers of students with limited English proficiency.~~

~~3)~~ ~~Ongoing training activities for all bilingual program staff shall take place at least twice yearly. The areas to be addressed shall include but need not be limited to one or more of the following:~~

~~A)~~ ~~current research in the teaching of bilingual education;~~

~~B)~~ ~~methods and techniques for teaching content areas, language arts of the students' home languages, and ESL in a bilingual classroom;~~

~~C)~~ ~~language assessment;~~

~~D)~~ ~~issues related to the culture and history of the United States and of the country, territory or geographic area that is the native land of the students or of their parents; and~~

~~E)~~ ~~issues related to serving students with limited English proficiency who also have disabilities.~~

~~d)~~ ~~Joint Programs – A school district may join with one or more school district(s) to provide joint programs or services in accordance with the provisions of Section 10-22.31a of the School Code [105 ILCS 5/10-22.31a]. The designated~~

~~administrative agent shall adhere to the procedures contained in 23 Ill. Adm. Code 110 (Program Accounting Manual) as they pertain to cooperative agreements.~~

~~e)~~ ~~*Preschool and Summer School Programs − A school district may establish preschool and summer school programs for students of limited English proficiency, or join with other school districts in establishing such programs. Summer school programs shall not replace programs required during the regular school year*~~.

c)~~f)~~ Maintenance of Records and Reporting Procedures

1) Report Cards − The school shall send progress reports to parents or legal guardians of students enrolled in programs in ~~at least~~ the same manner and with the same frequency as progress reports are sent to parents or legal guardians of other students enrolled in the school district. These~~Such~~ reports shall indicate the student's progress in the program and in the general program of instruction, and shall indicate when the student has successfully completed requirements for transition from the program into the general program of instruction. Progress reports for all students enrolled in a program under this Part shall be written in English and in the student's home language unless a student's parents or legal guardian agree in writing to waive this requirement. The parents'~~Such~~ waiver shall be kept on file in accordance with subsection (c)(3)~~(f)(3)~~ of this Section.

2) Annual Student Reports~~Report~~ − Each district must complete the Transitional Bilingual Education Annual Student Report and the Program Delivery Report provided by the State Superintendent~~Board~~ of Education, in which information on each program and each student participating in the program is compiled.

3) Records − School districts shall maintain records of each student enrolled in programs in the manner prescribed in 23 Ill. Adm. Code 375 (Student Records). These records shall include program entry/exit information, annual English proficiency test scores and other student ~~assessment~~ information (e.g., language, ~~program entry and exit dates,~~ grade level, and attendance), the rationale for a student's placement into a part-time program, where applicable, including documentation of the factors indicating that a part-time program would be appropriate, and documentation of conferences and written communication with parents or legal guardians. Parents and legal guardians of students enrolled in

programs shall have access to such records, as specified in 23 Ill. Adm. Code 375~~(Student Records)~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 228.50 Program Plan Approval and Reimbursement Procedures

a) Reimbursement for programs provided by school districts pursuant to the provisions of Article 14C of the School Code and this Part is contingent upon the submission and approval of a program plan and request for reimbursement in accordance with the requirements of Section 14C-12 of the School Code and this Section.

b) Program Plan Submission and Approval

1) Applications for program approval shall be submitted, on forms provided by the State Superintendent~~Board~~ of Education, at least 60 calendar days prior to the start of the proposed initial or continuing program.

2) The State Superintendent of Education will waive the requirement in subsection (b)(1) of this Section only when an application is accompanied by a statement of facts showing that the waiver will enable the district to begin serving a student or students sooner than would otherwise be the case.

3) School districts shall be granted at least 45~~60~~ calendar days to complete and submit applications to the State Superintendent~~Board~~ of Education. A district's failure to submit a completed application by the date specified on the form will delay its receipt of reimbursement pursuant to subsection (c) of this Section.

4) Applications for a Transitional Bilingual Education Program and/or a Transitional Program of Instruction must contain at least the following information:

A) The number of students to be served by grade or grade equivalent and language group in a full-time or part-time program.

B) A summary description of the number and types of personnel who will provide services in the program.

C) A description of the full-time and/or part-time program to be provided to the students identified pursuant to subsection (b)(4)(A) of this Section in relation to the applicable program standards set forth in Section 228.30 of this Part.

D) ~~A copy of the district's procedures for identifying students of limited English proficiency, which must be in compliance with the standards set forth in Section 228.15 of this Part.~~

~~E)~~ ~~Descriptions of the district's procedures and testing instruments for the annual examinations required under Section 228.25 (d) of this Part, including evidence, where applicable, that the cutoff scores used as exit criteria represent levels of English-language proficiency comparable to those represented by scores at the 50th percentile (or equivalent) on the nationally normed tests used by the district to identify eligible students.~~

~~F)~~ A budget summary containing a projection of the program expenditures (e.g., instruction, support services, administration and transportation) and offsetting revenues for the upcoming fiscal year, and a detailed budget breakdown including allowable program expenditures for which reimbursement is sought, other program expenditures and total program costs.

E)~~G)~~ In the case of a TBE program, the~~The~~ signature of the chairperson~~president~~ of the district's Bilingual Parent Advisory Committee established pursuant to Section 14C-10 of the School Code and Section 228.30(e)(5)~~228.30 (a) (8)~~ of this Part, which shall be evidence that the~~said~~ Committee has had an opportunity to review the application.

5) Applications that~~which~~, upon review by the State Superintendent~~Board~~ of Education staff, are found to contain the information required pursuant to this Section shall be recommended for approval by the State Superintendent of Education. If the application is found to be incomplete, State Board staff will send a written notice to applicants requesting that they supply the needed information. In order to permit accurate allocation of funds for the program among eligible recipients, the State Superintendent may establish a deadline by which~~Such~~ applicants must

supply the requested information~~ within 15 calendar days of their receipt of said notice~~.

6) The State Superintendent of Education will approve applications that demonstrate compliance with Article 14C of the School Code and this Part, except that the State Superintendent shall invoke subsection (b)(5) of this Section with respect to any requested information that is missing from any application submitted for approval.

c) Account of Expenditures and Reimbursement Procedures

1) An account of each district's expenditures pursuant to Article 14C of the School Code and this Part shall be maintained as required in Section 14C-12 of the School Code. Accounting procedures shall be in accordance with applicable requirements of 23 Ill. Adm. Code 110 (Program Accounting Manual).

2) The final annual report of district expenditures, which shall include the information specified in Section 14C-12 of the School Code, shall be submitted on forms provided by the State Superintendent~~Board~~ of Education no later than July 31~~10~~ of each year.

3) School districts shall submit claims for reimbursement of programs approved in accordance with this Part on forms provided by the State Superintendent~~Board~~ of Education and in accordance with ~~the timelines and procedures specified in~~ Section 14C-12 of the School Code. No State reimbursement shall be available with respect to any student served for fewer than five class periods per week.

4) In the event that funds appropriated by the General Assembly are insufficient to cover the districts' excess costs, the funds will be distributed on a pro rata basis and in accordance with the timelines specified in Section 14C-12 of the School Code.

5) A request to amend a district's approved budget shall be submitted on forms provided by the State Superintendent~~Board~~ of Education whenever a district determines that there is a need to increase or decrease an approved line item expenditure by more than $1,000 or 20 percent, whichever is larger. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures

not identified in the approved budget.

6) Budget amendment requests will be approved if the rationale ~~required to be~~ provided for each amendment includes facts demonstrating that:

A) there is a need (e.g., a change in the number of students served or personnel needed); and

B) the altered expenditures and their related program services will be in compliance with the requirements of Article 14C of the School Code and this Part.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 228.60 Enforcement

a) Each school district's compliance with the requirements of Article 14C of the~~The~~ School Code and this Part shall be evaluated at least every three years by State Board of Education staff, who shall use the criteria set forth in Article 14C of the ~~The~~ School Code and this Part to determine compliance.

b) The recognition status of districts found to be in noncompliance with the requirements of Article 14C of the~~The~~ School Code and this Part will be evaluated in accordance with the provisions of Subpart A of 23 Ill. Adm. Code 1~~(Public Schools Evaluation, Recognition and Supervision)~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Parental Participation Pilot Project

2) Code Citation: 23 Ill. Adm. Code 560

3)

Section Number:	Proposed Action:
560.10	New Section
560.20	New Section
560.30	New Section
560.40	New Section
560.50	New Section

4) Statutory Authority: 105 ILCS 5/2-3.137

5) A Complete Description of the Subjects and Issues Involved: This rulemaking responds to P.A. 94-507 (2005), which created the Parental Participation Pilot Project as a four-year grant program designed to help the "lowest-performing" districts improve their performance through activities that stimulate or rely on parental participation. The law specifies that four districts be selected to participate in the project, of which one must be the City of Chicago District #299. Each of the other three will be chosen out of a separate group made up, respectively, of districts in Cook County outside the city; districts in the "collar" counties of DuPage, Kane, Lake, McHenry, and Will; and districts in the remainder of the state.

ISBE is required by the statute to establish this program by rule by the beginning of the 2006-07 school year, and the rules need to state which districts are eligible by virtue of being "lowest-performing". Since there will only be one grantee from each of the geographic areas, the approach we have chosen is to limit eligibility to those districts ranked in the bottom 20 within their respective areas of the state in terms of their performance on the State assessment.

The agency is also assigned the task of reviewing districts' "academic improvement plans" to determine whether each applicant has certain problems (low performance on the State assessment, prevalence of students who are difficult to serve, and low attendance rates) and whether the problems identified can be addressed through enhanced parental participation. The applicants' need for the pilot project and intended methods of evaluating outcomes are also to factor into ISBE's review. A set of criteria for the ranking of proposals is therefore needed as part of these rules.

The Board's budget request for this program is $100,000 for FY 07. With the Chicago Public Schools in the group to be funded, it would not have been reasonable to allocate

the funds to the four grantees in proportion to their enrollment, because the amounts available to the other grantees would then be negligible. Further, the law calls for the development of a plan for each district's project by a specially appointed parental participation committee, so potential applicants need to know the amount grantees will receive before they take all the preparatory steps required. We therefore determined that, if an appropriation is received, it should be divided equally among the four grantees. They may expend the funds for activities in one or more schools, at their option and according to their approved plans, which will largely be used as their grant applications as well.

Finally, we determined that, if an original recipient is ineligible for continued funding over the life of the project, no new grantee should be chosen to fill that "vacancy". ISBE is to conduct a summative evaluation of this program and report on its outcomes to the General Assembly by the end of 2010, so longitudinal information from the grantees will be needed. It therefore would not be practical to fund additional districts for a shorter period of time.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (S-493)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: Not applicable

14) This rulemaking was not included in either of the 2 most recent agendas because: The uncertainty of funding led to uncertainty regarding the need for new rules.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER o: MISCELLANEOUS

PART 560
PARENTAL PARTICIPATION PILOT PROJECT

Section

560.10 Purpose and Applicability
560.20 Eligible Applicants
560.30 Application Procedure; Plan
560.40 Criteria for the Review of Initial Proposals
560.50 Allocation of Funds

AUTHORITY: Implementing and authorized by Section 2-3.137 of the School Code [105 ILCS 5/2-3.137].

SOURCE: Adopted at 30 Ill. Reg. _____, effective _____.

Section 560.10 Purpose and Applicability

This Part establishes the application procedure and criteria for selection by the State Board of Education of the districts that will participate in the pilot project established under Section 2-3.137 of the School Code [105 ILCS 5/2-3.137]. The provisions of this Part apply only to applicants for grants pursuant to that Section.

Section 560.20 Eligible Applicants

Eligible applicants shall be the City of Chicago School District 299 and the 20 lowest-performing school districts within each of the geographic areas identified in Section 2-3.137(d) of the School Code, ranked according to the percentage of all the scores attained by students on most recent administration of the State assessment for which data are available that were classified as demonstrating proficiency (see 23 Ill. Adm. Code 1.30). Public university laboratory schools approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)] and charter schools shall also be eligible to apply if their performance is within the range of the 20 lowest-performing districts for their respective geographic areas; see 105 ILCS 5/2-3.109a and 27A-11.5, respectively.

Section 560.30 Application Procedure; Plan

a) When State funding is available for the Parental Participation Pilot Project, the State Superintendent of Education shall issue a Request for Proposals (RFP) in order to solicit applications from eligible entities. As used in this Part, a "proposal" or "application" means an academic improvement plan developed in accordance with Section 2-3.137 of the School Code, accompanied by the additional materials applicants will be required to submit in response to the RFP, as described in this Section. For purposes of this Part, an "academic improvement plan" means the plan of work for the specific project for which State funding is sought.

b) The RFP shall describe the format that applicants will be required to follow and any additional information they may be required to submit.

c) The RFP shall indicate the amount or expected amount of the appropriation for the program and the expected amount of each grant under this Part, which shall be equal to one-fourth of the total appropriation.

d) The RFP shall include a budget summary and payment schedule, as well as a narrative budget breakdown, i.e., a detailed explanation of each line item of expenditure that discusses the need for State funds in the context of the applicant's other available resources.

e) The RFP shall identify the data recipients will be required to collect and report regarding the activities conducted under the pilot project and the results of those activities, as well as the timelines for reporting.

f) The RFP shall include such certification and assurance forms as the State Superintendent may, by law, require.

g) The RFP shall specify the deadline for submission of proposals, which shall provide potential applicants with at least 45 days to respond.

h) Separate proposals shall be required for renewal of funding during the remaining term of the pilot project (see Section 2-3.137(b) of the School Code). Each proposal for renewal shall include at least:

1) a description of activities undertaken during the year just concluded, demonstrating that the project has been implemented in conformance with the approved plan and proposal;

2) the information called for in Section 2-3.137(f) of the School Code;

3) an updated project narrative that discusses the services and materials for which funding is requested and a rationale for the activities to be undertaken; and

4) an updated budget summary and payment schedule for the renewal year, including a narrative budget breakdown.

i) Incomplete proposals will not be considered.

Section 560.40 Criteria for the Review of Initial Proposals

a) Applications for initial funding shall be evaluated in accordance with the following criteria:

1) Need for the Project; Quality of the Plan (70 points)

A) The proposal demonstrates that one or more of the elements of need discussed in Section 2-3.137(d)(1) of the School Code are applicable to the schools to be served by the project.

B) The proposal demonstrates that the activities proposed as part of its pilot project are consistent with the parental involvement activities set forth in any approved district or school improvement plan.

C) The proposal demonstrates that other sources of funding are limited to such an extent that the applicant is unable to conduct the proposed activities without funding under this Part.

D) The proposed activities are designed to increase parental participation in the affected school or schools, and the proposal demonstrates that the activities were chosen in response to the needs and characteristics of the families to be served.

E) The proposal indicates how the intended activities are expected to result in one or more of the possible effects described in Section 2-3.137(f) of the School Code.

F) The scope of the proposed activities is reasonable in light of the amount of funding to be provided, and the project will be cost-effective considering the number of students and parents to be involved.

2) Evaluation Plan (30 points)

A) From among the possible effects described in Section 2-3.137(f) of the School Code, the proposal identifies one or more areas of improvement to be targeted by the project.

B) The proposal identifies specific data and other types of information that will be gathered systematically over the course of the project to determine whether the intended improvements are occurring and to gauge the project's impact.

b) Proposals shall be grouped according to the geographic areas delineated in Section 2-3.137(d) of the School Code, and each proposal shall be ranked only in comparison to proposals from other eligible entities within its respective group.

Section 560.50 Allocation of Funds

a) The State Superintendent of Education shall approve initial applications for funding and make final determinations regarding the amounts to be provided based upon the total funds appropriated for this initiative.

b) In accordance with Section 2-3.137(b) of the School Code, it is the intention of the State Board of Education to approve funding for four projects under this Part for a four-year period. Funding for the second, third, and fourth years shall be contingent upon the availability of funds for the program and evidence presented in renewal proposals that the projects have been implemented in accordance with the approved academic improvement plans and grant agreements.

c) Only the four grantees originally selected shall be eligible for funding in the second, third, and fourth years of the project. If one or more of these grantees does not submit an approvable application for continued funding, the amount appropriated for the year in question and any subsequent years shall be divided evenly among the remaining eligible grantees.

ILLINOIS STATE BOARD OF INVESTMENTS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part : Rules and Regulations of the Board

2) Code Citation: 74 Ill. Adm. Code 800

3)

Section Numbers:	Proposed Action:
800.130	Amendment
800.140	Amendment
800.240	Amendment

4) Statutory Authority: Implementing and authorized by Section 22A-110 of the Illinois Pension Code [40 ILCS 5/22A-110].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking results from the comprehensive review of the Board's rules. Most amendments were made to omit unnecessary language and update as needed. Changes that are worthy of mention include:

- In Section 800.140 "Committees", the Executive Committee assumes authority to conduct Board business between Board meetings and report such business at the next Board meeting for ratification.

- The "Accounting and Audit Committee" is renamed the "Audit and Compliance Committee" to reflect that the Audit and Compliance Committee assumes responsibility as to the Board's compliance with the Illinois Ethics Act and acts as the Board's designated Ethics Officer for Board members and staff.

- A new committee is created, the "Emerging Manager Committee", that will have responsibility as to interviewing minority and emerging and female investment managers, recommending policing pertaining to the Board's investments, such as the Board's Minority Brokerage Policy or Targeted Investment Policy.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

ILLINOIS STATE BOARD OF INVESTMENTS

NOTICE OF PROPOSED AMENDMENTS

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

11) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandate of the Board's duties or authority.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Jeannie Ridings, Esq.
Kubasiak, Fylstra, Reizen & Rotunno, P.C.
20 South Clark, Suite 2900
Chicago IL 60603

312-630-9600 Phone
312-630-9600 Fax

or

Emily Reid, Esq. – Compliance Officer
Illinois State Board of Investments
180 North LaSalle Street, Suite 2015
Chicago, Illinois 60601

312-793-5718 Phone
312- 793-2266 Fax

13) Initial Regulatory Flexibility Analysis:

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

B) Reporting, bookkeeping or other procedures required for compliance: The proposed amendments will not have an impact on current ISBI practices or procedure.

C) Types of professional skills necessary for compliance: The proposed amendments will not have an impact on current Board practices or procedure.

ILLINOIS STATE BOARD OF INVESTMENTS

NOTICE OF PROPOSED AMENDMENTS

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The need for the rulemaking was not anticipated when the 2 most recent regulatory agendas were published.

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

ILLINOIS STATE BOARD OF INVESTMENTS

NOTICE OF PROPOSED AMENDMENTS

TITLE 74: PUBLIC FINANCE
CHAPTER VII: STATE BOARD OF INVESTMENTS

PART 800
RULES AND REGULATIONS OF THE BOARD

SUBPART A: AUTHORITY

Section
800.5 Authority

SUBPART B: BY-LAWS

Section
800.110 Offices of the Board
800.120 Meetings
800.130 Officers and Their Duties
800.140 Committees

SUBPART C: GENERAL POLICIES

Section
800.210 Functions
800.220 Fiduciary Aspects
800.230 Delegation of Authority
800.240 Budget

SUBPART D: ACCOUNTING

Section
800.310 Investment Account
800.320 Pension Fund Credits
800.330 Pension Fund Charges
800.340 Reserve Balances

SUBPART E: REPORTS

Section
800.410 Fiscal Reporting
800.420 Audits

ILLINOIS STATE BOARD OF INVESTMENTS

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: AMENDMENTS

Section
800.510 Changes or Amendments

AUTHORITY: Implementing and authorized by Section 22A-110 of the Illinois Pension Code [40 ILCS 5/22A-110].

SOURCE: Rules and Regulations of the Board, effective March 25, 1971; January 8, 1972; October 6, 1972; February 14, 1975; February 9, 1976; February 9, 1977; codified at 5 Ill. Reg. 10701; amended at 30 Ill. Reg. _____, effective _____.

SUBPART B: BY-LAWS

Section 800.130 Officers and Their Duties

a) Elective officers. The following named officers shall be elected by the Board~~board~~ biennially at the annual meeting in each odd-numbered year from among the members of the Board~~board~~: Chair~~Chairman~~, Vice Chair~~Chairman~~, and Recording Secretary. Any vacancy occurring during a biennial period shall be filled in like manner for the unexpired term of office.

b) Appointive officers. The following named officers shall be appointed by the Board~~board~~: the Director and such other officers as the Board~~board~~ may from time to time determine.

c) Officers ex officio. The State Treasurer shall be ex officio Custodian and Treasurer of the Board.

d) Chair~~Chairman~~. The Chair~~Chairman~~ shall be the chief executive officer of the Board~~board~~; shall preside at all meetings; announce the business before the Board~~board~~; announce the question under consideration and the result of the vote taken; request a roll call upon any action or resolution as herein provided. He or she shall appoint all necessary committees and see that they perform their assigned duties. The Chair~~He~~ and the Director shall sign all written contracts and agreements upon authorization of the Board~~board~~. The Chair~~He~~ shall exercise ~~a~~ general supervision over the operations of the agency.

e) Vice Chair~~Vice-Chairman.~~

ILLINOIS STATE BOARD OF INVESTMENTS

NOTICE OF PROPOSED AMENDMENTS

1) In the absence of the Chair~~Chairman~~, the Vice Chair~~Vice-Chairman~~ shall act as Chair~~Chairman~~ at any regular or special meeting and shall serve in the Chair's~~Chairman's~~ stead if the Chair~~Chairman~~ is temporarily unable or unwilling to act.

2) If the Chair~~Chairman~~ or Vice Chair~~Vice-Chairman~~ is not available to preside at a meeting, any member selected by a majority vote of those present may act as presiding officer, pro tempore.

f) Recording secretary. The Recording Secretary shall record the proceedings of each meeting of the Board and make copies available to each member ~~as herein provided~~. In accordance with law, he or she shall give proper and timely notice of all meetings to members of the Board~~board~~ and others concerned with the business of the Board~~board~~; shall prepare for each meeting of the Board~~board~~ an Order of Business showing the business to be transacted by the Board~~board~~; ~~he~~ shall authenticate with his or her signature any resolutions of the Board~~board~~; and shall perform such other duties as may be prescribed by the rules, orders or resolutions of the Board~~board~~.

g) Custodian~~.~~

1) The State Treasurer, as official Custodian of the Board,~~board~~ shall provide adequate safe deposit facilities for securities, funds and other assets received by the Board~~board~~ and hold those~~such~~ securities, funds and other assets subject to the order of the Board~~board~~. He or she shall arrange to receive from the several pension funds subject to the jurisdiction of the Board~~board~~ all securities in their possession or for which commitments had been made, and all funds, assets or moneys representing permanent or temporary investments or cash reserves maintained for the purpose of obtaining income. All transfers ~~therefrom which transfer~~ shall be receipted for, in detail, by the Chair~~Chairman~~ and Director of the Board~~board~~.

2) The Board~~board~~ may also contract, for a predetermined fee, with any national or state bank or trust company authorized to do a trust business ~~and domiciled~~ in the State of Illinois for custodial and trust accounting facilities for the investments under its control, which may include the collection of interest, dividends and principal payments.

3) From the reports compiled by the State Treasurer relative to the cash balances applicable to each pension fund for a determination of investable funds, each retirement system shall report to the Board~~board~~ periodically, but at least once each month, the amounts available for investment after provision for the current requirements of the fund for benefits and expense payments.

4) The Custodian shall submit periodic reports to the Board~~board~~ on the investments held ~~by him~~ for the account of the pension funds under the jurisdiction of the Board~~board~~.

h) Director~~.~~

1) The Director shall administer the affairs of the Board pursuant to the provisions of the statute governing the Board, subject to and under supervision of the Board. With the approval of the Board, the Director~~he~~ may employ such personnel, professional or clerical, as may be desirable and necessary, and fix their compensation. The Director~~He~~ shall be in complete charge of all records, books, files, papers and documents belonging to the Board, other than those in the possession and under control of the statutory Custodian.

2) The Director or Chair~~Chairman~~ shall answer all correspondence bearing upon the business of the Board; shall present to the Board bills for expenses; shall request any information and reports that may be required during the course of operations to effectuate the objectives of the Board;~~,~~ and shall prepare ~~such~~ periodic statements and reports to fully carry out the expressed and implied requirements of the applicable law. He or she shall perform such other duties that are called for by the rules, orders, directives and resolutions of the Board.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 800.140 Committees

a) Executive Committee

1) There shall be an Executive Committee of the Board consisting of the Chair, Vice Chair~~Chairman, Vice Chairman~~, and Recording Secretary and one other member of the Board, who shall serve for a two-year term and

who shall be elected at an annual meeting following the election of officers. The Recording Secretary shall serve as Secretary of the Committee.

2) The ~~function of the~~ Executive Committee has the authority to conduct all business of the Board during the interim between Board meetings and report such business at the next Board meeting for ratification by the Board. The Executive Committee shall ~~be to~~ resolve any questions of procedure in the interim between meetings of the Board, propose to the Board changes in policy, and recommend to the Board changes in the statute governing the Board with the view of bringing about improved total return on investments consistent with the high standards of safety required in the investment of public funds. Recommendations may also be made by the Committee~~this committee~~ for possible extension of the scope of authority of the Board to include other pension or trust funds.

b) ~~Accounting and~~ Audit and Compliance Committee

1) There shall be an ~~Accounting and~~ Audit and Compliance Committee of the Board, consisting of such members of the Board as the Chair~~Chairman~~ of the Board shall appoint, and who shall serve a term to end at the time of the next annual meeting of the Board following the election of officers. The Chair of the Board shall determine delegation of Committee responsibilities. (Examples of such delegation include formally communicating with the Illinois Auditor General, creating the Board's internal ethics code, and ensuring compliance with Illinois ethics laws.)

2) The Committee will elect a Committee Chair to whom the Committee may delegate only those responsibilities as have been approved in advance by the Board.

3)~~2)~~ Additional responsibilities~~The function~~ of the ~~Accounting and~~ Audit and Compliance Committee shall be to maintain supervision over all accounting related activities of the Board, including but not limited to regular liaison with the Office of the Auditor General, independent auditors and accounting consultants to the Board. In addition, the Committee will participate in the review of the Board's activities by the Legislative Audit Commission and the Auditor General.

4) The Audit and Compliance Committee shall have oversight responsibility

for all matters relating to the Illinois Ethics Act. The Chair of the Committee shall be the designated Ethics Officer for Board members and staff. The Committee shall develop and make recommendations to the Board regarding policies and procedures for internal Codes of Ethics for both the Board and Staff members, consistent with the State Officials and Employees Ethics Act [5 ILCS 430].

5)~~3)~~ The~~Finally, the~~ Committee will recommend changes in accounting policy for ~~to the~~ Board ~~for~~ consideration.

6) The Committee shall meet as often as necessary in the discretion of the Chair of the Board or the Chair of the Committee, so long as the meeting is in compliance with the Open Meetings Act [5 ILCS 120]. All Board members shall be encouraged to attend and participate.

c) Investment Policy Committee

1) There shall be an Investment Policy Committee of the Board consisting of such members of the Board as the ~~Chairman~~ Chair of the Board shall ~~from time to time~~ appoint, and who shall serve a term to end at the time of the next annual meeting of the Board following the election of officers~~and where terms will expire at the next annual meeting of the Board~~. The Chair of the Board shall determine delegation of Committee responsibilities. (Examples of such delegation include interviewing investment management firms that are finalists in the Board's competitive bidding process and recommending policies pertaining to the Board's investments, such as the Board's asset allocation study.)

2) It shall be the responsibility of the Committee:

A) to recommend investment policy to the Board, both at its regularly scheduled meetings and whenever ~~else~~ such recommendations appear, in the judgment of the Committee, to be necessary or desirable;~~,~~

B) for the ongoing and specific supervision of the internal investment process, including but not limited to advance approval of all long-term investment transactions not falling within certain delegatory guidelines established ~~earlier~~ by Board action;~~,~~ and

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C) for ongoing liaison with external investment advisors, together with recommendations concerning the tenure, compensation, fund direction, and retention of the advisors~~thereof~~.

3) The Investment Policy Committee shall elect a Chair~~Chairman~~ and a Vice Chair~~Chairman~~, to whom~~which~~ the Committee may delegate only those~~such of its~~ responsibilities as have been approved in advance by the ~~Illinois State~~ Board ~~of Investment~~.

4) The Committee shall meet as often as necessary in the discretion of the Chair of the Board or the Chair of the Committee, so long as the meeting is in compliance with the Open Meetings Act.~~should establish a schedule of regular meetings at which~~ All~~all~~ Board members shall be encouraged to attend and participate.

5) The Committee shall advise~~should consider and may, but need not, recommend to~~ the Board ~~a proposal concerning regular~~ when the Committee believes it is appropriate that~~participation by~~ non-Board members with~~who have recognized expertise in various~~ investment and economic expertise should participate in Committee affairs~~disciplines~~.

6) The ~~Chairman of the Illinois State~~ Board Chair ~~of Investment~~ will be an ex-officio, voting member of the Committee.

d) Emerging Manager Committee

1) There shall be an Emerging Manager Committee of the Board consisting of such members of the Board as the Chair of the Board shall appoint and who shall serve a term to end at the next annual meeting of the Board following the election of officers. The Chair of the Board shall determine the Committee's responsibilities.

2) The Committee will elect a Chair to whom the Committee may delegate only those responsibilities as have been approved in advance by the Board.

3) It shall be the responsibility of the Emerging Manager Committee to consider recommendations to the Board on Emerging Manager Policy.

4) The Emerging Manager Committee will function as ongoing liaison with emerging managers and make recommendations to the Board concerning

the tenure, compensation, fund direction, and retention of emerging managers.

5) The Committee shall meet as is necessary in the discretion of the Chair of the Board or the Chair of the Committee, so long as the meetings are in compliance with the Open Meeting Act. All Board members shall be encouraged to attend and participate.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: GENERAL POLICIES

Section 800.240 Budget

Not later than September 30th of each fiscal year, the Board shall adopt a budget for the period commencing July 1st and ending the following June 30th. The said budget shall set forth by appropriate designations the amount of money authorized to be expended by the Board for that designated category. The affirmative vote of five (5) Board members shall be necessary for adoptionthe adopting of the budget. On and after April 1st of each fiscal year, the approved amount of any designated category may be amended by the affirmative vote of six (6) Board members. Notwithstanding the adoptionadopting of a budget, the employment of additional personnel and approval of all vouchers must be by Board action. The Financial Officer of the Board shall at the end of each month submit a quarterly report to the Board members setting forth by designated categories the cumulative amount of expenditure for the fiscal year to date and the total amount budgeted for each category.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Standards and Requirements for Potable Water Supply Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notices of Threats From Contamination

2) Code Citation: 35 Ill. Adm. Code 1505

3)

Section Numbers:	Proposed Action:
1505.100	New Section
1505.105	New Section
1505.110	New Section
1505.115	New Section
1505.200	New Section
1505.205	New Section
1505.210	New Section
1505.300	New Section
1505.305	New Section
1505.310	New Section
1505.315	New Section
1505.320	New Section
1505.325	New Section
1505.330	New Section
1505.335	New Section
1505.340	New Section
1505. APPENDIX A	New Section

4) Statutory Authority: Implementing Sections 25d-3(c) and 25d-7(a) and authorized by Section 25d-7(a) of the Environmental Protection Act [415 ILCS 5/25d-3(c) and 5/25d-7(a)].

5) A Complete Description of the Subjects and Issues Involved: A more complete description of this rulemaking may be found in the Board's April 20, 2006 opinion and order in docket R06-23. This rulemaking is based on statutory amendments to the Illinois Environmental Protection Act (Act) [415 ILCS 5] in Public Act 94-314.

Public Act 94-314, effective July 25, 2005, added a new Title VI-D "Right-To-Know" to the Environmental Protection Act. Public Act 94-314 requires the Board to adopt well survey and community relations rules within 240 days of the effective date of Public Act 94-314, or no later than September 17, 2006. The Board meeting immediately before that date is scheduled for September 7, 2006. This new Part proposes rules requiring

potable water well surveys and community relations activities in response to releases of contaminants that have impacted or may impact offsite groundwater or soil. The proposal includes minimum standards for the performance and documentation of water well surveys required under applicable Board rules. When water well surveys are required, Subpart B requires compliance with minimum standards during site investigations to ensure complete and accurate identification of the existence and location of potable water supply wells. Additionally, the proposal contains the standards and requirements for community relations activities to be developed and implemented when the responsible party agrees to take on the Illinois Environmental Protection Agency's notice obligations as part of IEPA-approved community relations activities.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This proposed rule does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2004)].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R06-23 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago IL 60601

Interested persons may request copies of the Board's opinion and order by calling Dorothy Gunn at 312-814-3620, or download from the Board's Web site at www.ipcb.state.il.us.

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For more information contact Amy Antoniolli at 312/814-3665 or email at antonioa@ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This proposed rule would affect any small business, small municipality and not for profit corporation that is required to survey water wells and/or provide public information as part of its response action to a release or threat of release of regulated contaminants.

B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking contains recordkeeping and reporting requirements that are similar to other permit program requirements, along with adding additional public reporting requirements. For example, persons authorized by the Agency to provide notice under Subpart C must create an online document repository containing the relevant public information. If a request is made for a repository at a physical location, a physical repository must also be provided.

C) Types of Professional skills necessary for compliance: Compliance with this proposed Rule may require the assistance of an attorney, certified public accountant, chemist, and registered professional engineer.

14) Regulatory Agenda on which this rulemaking was summarized: January 2006

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE O: RIGHT TO KNOW
CHAPTER I: POLLUTION CONTROL BOARD

PART 1505
STANDARDS AND REQUIREMENTS FOR POTABLE WATER SUPPLY WELL SURVEYS AND FOR COMMUNITY RELATIONS ACTIVITIES PERFORMED IN CONJUNCTION WITH AGENCY NOTICES OF THREATS FROM CONTAMINATION

SUBPART A: GENERAL

Section
1505.100 Purpose and Scope
1505.105 Applicability
1505.110 Definitions
1505.115 Severability

SUBPART B: STANDARDS AND REQUIREMENTS FOR POTABLE WATER SUPPLY WELL SURVEYS

Section
1505.200 Purpose and Scope
1505.205 Applicability
1505.210 Procedures for Potable Water Supply Well Surveys

SUBPART C: STANDARDS AND REQUIREMENTS FOR COMMUNITY RELATIONS ACTIVITIES

Section
1505.300 Purpose and Scope
1505.305 Applicability
1505.310 Contact Lists and Fact Sheets
1505.315 Community Relations Plans
1505.320 Establishment of Document Repository
1505.325 Submission of Fact Sheets and Community Relations Plans for Review
1505.330 Agency Reviews of Fact Sheets and Community Relations Plans
1505.335 Implementation of Community Relations Plans and Distribution of Fact Sheets; Compliance Monitoring and Records Retention
1505.340 Compliance

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1505.APPENDIX A Contents of a Model Community Relations Plan

AUTHORITY: Implementing Sections 25d-3(c) and 25d-7(a) and authorized by Section 25d-7(a) of the Environmental Protection Act [415 ILCS 5/25d-3(c) and 25d-7(a)].

SOURCE: Adopted in R06-23 at 30 Ill. Reg. _____, effective, _____.

SUBPART A: GENERAL

Section 1505.100 Purpose and Scope

The purpose of this Part is to set forth in accordance with Section 25d-7 of the Act [415 ILCS 5/25d-7] the minimum procedures for conducting potable water supply well surveys pursuant to applicable Board rules and for the documentation and reporting of the results of those surveys to the Agency. In addition, the purpose of this Part is to set forth in accordance with Section 25d-7 of the Act standards and requirements for the performance of community relations activities when the Agency has authorized the responsible party to provide the notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act [415 ILCS 5/25d-3(a) and (c)] as part of the Agency-approved community relations activities. Subsection (a) of Section 25d-3 of the Act requires that the Agency provide notice under certain specified circumstances while subsection (c) of Section 25d-3 provides that the Agency may authorize a responsible party who has implemented community relations activities to provide the notice in place of the Agency. The standards and requirements in Subpart C of this Part are for community relations activities performed by those authorized to provide notice in place of the Agency. This Part establishes the minimum standards and requirements for the performance of the potable water supply well surveys and the development, review, implementation and distribution of fact sheets and community relations plans and the establishment and maintenance of document repositories.

Section 1505.105 Applicability

Subparts B and C of this Part contain separate and independent applicability provisions.

Section 1505.110 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as that applied to the same words or terms in Title I or Title VI-D of the Environmental Protection Act.

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" is the Illinois Environmental Protection Agency. [415 ILCS 5/3.105]

"Board" is the Pollution Control Board. [415 ILCS 5/3.130]

"Community relations plan" or "CRP" means a plan containing goals, milestones, and specific tasks that will accomplish two-way communications between a party performing a response action and community members who may be interested in or affected by site contamination or activities at the remediation site.

"Contaminant" is any solid, liquid or gaseous matter, any odor, or any form of energy, from whatever source. [415 ILCS 5/3.165]

"Contamination" or "contaminate", when used in connection with groundwater, means water pollution of such groundwater. [415 ILCS 5/3.170]

"Person" means individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body, including the United States Government and each department, agency and instrumentality of the United States. [415 ILCS 5/58.2]

"Person performing a response action" means the person(s) taking responsibility for addressing a release by authorizing or approving the performance of a response action (e.g., Leaking Underground Storage Tank Program owner or operator, Site Remediation Program Remediation Applicant, permittees). The phrase does not include persons who have been hired or authorized to perform the response action by the person taking responsibility for the release or persons with whom the person taking responsibility for the release has contracted or subcontracted to perform the response action.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer or such persons; emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the federal Atomic Energy Act of 1954, if such

release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of such Act; and the normal application of fertilizer. [415 ILCS 5/3.395]

"Response action" means any action or series of actions taken to address a release of contaminants or its effects as may be necessary or appropriate to protect human health or the environment. A response action may include, but is not limited to, release investigation and characterization, soil remediation, and groundwater remediation.

Section 1505.115 Severability

If any provision of this Part is adjudged invalid, or if the application to any person or in any circumstance is adjudged invalid, such invalidity shall not affect the validity of this Part as a whole or any Subpart, Section, subsection, sentence or clause thereof not adjudged invalid.

SUBPART B: STANDARDS AND REQUIREMENTS FOR
POTABLE WATER SUPPLY WELL SURVEYS

Section 1505.200 Purpose and Scope

The purpose of this Subpart B is to establish minimum standards and requirements for performing potable water supply well surveys to ensure that these wells are accurately identified and located so that impacts and potential impacts to such wells from soil or groundwater contamination, or both, can be identified. The effects of soil contamination on groundwater contamination are evaluated as the soil component of the groundwater ingestion exposure route using modeling as referenced in this Subpart B. This Subpart B sets forth the procedures persons subject to this Subpart B shall use to perform potable water supply well surveys and for the documentation of the results of well surveys in reports to the Agency.

Section 1505.205 Applicability

a) Except as provided in subsection (b) of this Section, this Subpart B applies to persons performing response actions pursuant to applicable Board rules. Whenever a response action for soil or groundwater contamination, or both, is required pursuant to applicable Board rules, the person subject to those rules shall comply with the standards and requirements of this Subpart B when a well survey is required to determine the existence and location of potable water supply wells. When determining the existence and location of these wells, the person also shall

identify and locate setback zones and regulated recharge areas associated with the wells.

1) This Subpart B does not contain an independent requirement to perform a potable water supply well survey. If the Board rules governing, or Agency interpretations of those rules, require the performance of a well survey as part of the response action, this Subpart B sets forth the minimum standards and requirements that must be satisfied when performing that well survey and preparing the documentation for submission to the Agency. In addition, the submission and review of well survey documentation and appeals of Agency final determinations concerning well survey procedures and reporting are subject to the rules governing the response action.

2) Applicable Board rules requiring potable water supply well surveys as part of response actions may supersede the requirements of this Subpart B only to the extent their express provisions are equivalent to or more stringent than the standards and requirements of this Subpart B.

b) Persons performing response actions pursuant to applicable Board rules who already have initiated the response action for a release as of the effective date of this Part may be required by the Agency to perform an otherwise required potable water supply well survey in accordance with this Subpart B if:

1) The Agency requires the performance of a well survey in accordance with the applicable Board rules; and

2) The well survey:

A) has not been performed as of the effective date of this Part; or

B) has been performed but has not been approved by the Agency as of the effective date of this Part and the well survey performed does not satisfy the requirements of this Subpart B.

c) Nothing in this Subpart B is intended to prohibit the use of all or some of the standards and requirements set forth in this Subpart B in other rules or contexts as authorized by those rules, Board or court orders, or other applicable law.

Section 1505.210 Procedures for Potable Water Supply Well Surveys

a) When applicable Board rules require a well survey to determine the existence and location of potable water supply wells, persons subject to this Subpart B shall identify all private, semi-private, and non-community water system wells located at the property where the release occurred or within 200 feet of the property where the release occurred, all community water system ("CWS") wells located at the property where the release occurred or within 2,500 feet of the property where the release occurred, and all setback zones and regulated recharge areas in which all or any portion of the property where the release occurred is located.

b) Actions taken to identify the wells and associated protected areas shall include, but not be limited to, the following:

1) Contacting the Agency's Division of Public Water Supplies to identify community water system wells and associated setback zones and regulated recharge areas;

2) Using current information from the Illinois State Geological Survey, the Illinois State Water Survey, and the Illinois Department of Public Health (or the county or local health department delegated by the Illinois Department of Public Health to permit potable water supply wells) to identify potable water supply wells, other than community water system wells, and their setback zones; and

3) Contacting the local public water supply entities to identify properties that receive potable water from a public water supply.

c) In addition to identifying potable water supply wells and associated protected areas pursuant to subsections (a) and (b) of this Section, persons subject to this Subpart B shall expand the area of the potable water supply well survey if measured or modeled groundwater contamination extends beyond a boundary of the property where the release occurred in concentrations exceeding the applicable remediation objectives of 35 Ill. Adm. Code 742.Appendix B: Table E for the groundwater ingestion route or the applicable groundwater quality standards at 35 Ill. Adm. Code 620 (e.g., Class I, Class III). If there is no Table E objective or Part 620 standard, the objective shall be determined or approved by the Agency in accordance with 35 Ill. Adm. Code 620.Subpart F.

1) The extent of modeled groundwater contamination shall be determined using the procedures of 35 Ill. Adm. Code 742 or another model or

methodology approved by the Agency. When modeling the extent of groundwater contamination, the modeling shall include the impact from soil contamination in concentrations exceeding the applicable remediation objectives for the soil component of the groundwater ingestion exposure route.

2) At a minimum, the expanded well survey shall identify the following:

A) All private, semi-private, and non-community water system wells located within 200 feet, and all community water system wells located within 2,500 feet, of the measured and modeled extent of groundwater contamination exceeding the Part 742 or Part 620 remediation objectives for the groundwater ingestion exposure route; and

B) All setback zones and regulated recharge areas in which any portion of the measured and modeled extent of groundwater contamination exceeding the Part 742 or Part 620 remediation objectives for the groundwater ingestion exposure route is located.

d) The Agency may, based on site-specific circumstances or information collection deficiencies (e.g., incomplete, conflicting or imprecise information, information assembled from unverified sources), require additional investigation to determine the existence or location of potable water supply wells, setback zones or regulated recharge areas. The additional investigation may include, but shall not be limited to, physical well surveys (e.g., interviewing property owners, investigating individual properties for wellheads, distributing door hangers or other materials requesting information about the existence of potable water supply wells).

e) Documentation of a potable water supply well survey conducted in accordance with this Section shall include, but not be limited to, the following:

1) One or more maps to a scale clearly showing the following:

A) The locations of the community water system wells and other potable water supply wells identified pursuant to this Section; and

B) The location and extent of setback zones and regulated recharge areas identified pursuant to this Section.

2) The maps showing the well locations, setback zones and regulated recharge areas pursuant to subsection (e)(1) of this Section shall show those areas in relation to the measured and modeled extent of groundwater contamination exceeding the remediation objectives of Part 742 or Part 620 for the groundwater ingestion exposure route.

3) One or more tables listing the applicable setback zones and regulated recharge areas for each community water system well and other potable water supply wells identified pursuant to this Section.

4) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells and protected areas pursuant to this Section, the name and title of each person contacted at each entity, and field observations, if any, associated with the identification and location of potable water supply wells.

SUBPART C: STANDARDS AND REQUIREMENTS FOR COMMUNITY RELATIONS ACTIVITIES

Section 1505.300 Purpose and Scope

a) The purpose of this Subpart C is to establish the minimum standards and requirements for the development and implementation of community relations activities in accordance with Section 25d-7 of the Act when the Agency has authorized the responsible party to provide the notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of the Agency-approved community relations activities. In addition, it is the purpose of this Part to ensure that these community relations activities fully inform communities and individuals in a timely manner about offsite impacts or potential impacts from soil or groundwater contamination or both and the responses to such impacts. This Subpart C contains requirements for the content, submission for review, distribution and implementation of fact sheets and community relations plans, and the establishment and maintenance of document repositories.

b) Subpart C Not a Limitation

1) This Subpart C establishes minimum requirements for community relations activities when such activities are to be performed in place of a notice by the Agency in accordance with subsection (a) of Section 25d-3 of the Act. Nothing in this Subpart C is intended to prohibit or prevent a

person from implementing other community relations activities sooner than required by this Subpart or under circumstances in addition to those described in this Subpart. The Agency may recommend that community relations activities be performed at other times and under other circumstances and may offer assistance with development and implementation of such activities where resources permit.

2) Nothing in this Subpart C is intended to limit in any way the Agency's authority to provide independent notice of threats of exposure to the public from soil or groundwater contamination, or both, in accordance with Title VI-D of the Act [415 ILCS 5/25d-1 through 25d-10] and implementing rules or under any other authority.

Section 1505.305 Applicability

a) Whenever the Agency determines that it must provide notice pursuant to subsection (a) of Section 25d-3 of the Act, the Agency may authorize the responsible party to provide the notice as part of the Agency-approved community relations activities developed and implemented in accordance with this Subpart C.

b) Nothing in this Subpart C requires the development and implementation of community relations activities in accordance with this Subpart unless:

1) The Agency notifies the responsible party in writing that a notice must be issued under subsection (a) of Section 25d-3 of the Act;

2) As a part of the written notice to the responsible party, the Agency offers the responsible party the opportunity to provide the notice in lieu of the Agency issuing the notice; and

3) The responsible party accepts the Agency's offer and notifies the Agency in writing within seven days after receipt of the Agency's offer (unless a longer period of time is provided in the Agency's notice letter) that it intends to provide the notice as part of the community relations activities developed and implemented in accordance with Subpart C of this Part in lieu of the Agency providing the notice.

c) Nothing in this Subpart C is intended to prohibit the use of all or some of the standards and requirements set forth in this Subpart C in other rules or contexts as authorized by those rules, Board or court orders, or other applicable law.

Section 1505.310 Contact Lists and Fact Sheets

a) Persons authorized by the Agency to provide notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of community relations activities shall comply with community relations requirements in subsection (b) of this Section if:

1) Measured or modeled groundwater contamination from the site where the release occurred (including the impact from soil contamination in concentrations exceeding the applicable remediation objectives for the soil component of the groundwater ingestion exposure route) poses a threat above the Class I groundwater quality standards at 35 Ill. Adm. Code 620 at five or fewer offsite private, semi-private or non-community water system wells; or

2) Offsite soil contamination from the site where the release occurred poses a threat of exposure to the public above the appropriate Tier 1 remediation objectives for the current use(s) at five or fewer offsite properties.

b) The person authorized to provide notice as part of community relations activities and within the limits set forth in subsection (a) of this Section shall develop a contact list and develop and distribute a fact sheet in accordance with this subsection (b).

1) The person shall prepare a contact list including, but not limited to, the following affected, potentially affected or interested persons, as applicable:

A) Owners of properties served by private, semi-private or non-community water system wells that have been or may be impacted by groundwater contamination from the release;

B) Owners of offsite properties with soil contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use(s);

C) Occupants of the properties identified in subsections (b)(1)(A) and (b)(1)(B) of this Section to the extent reasonably practicable. The contact list shall include the methods by which the responsible party has attempted to identify the occupants;

D) Owners of properties without potable water supply wells but with groundwater that has been or may be impacted by groundwater contamination from the release; and

E) Officials of each unit of government serving the affected properties, including State and federal legislators, county board chairs and county clerks, township supervisors, and mayors or village presidents and city or village clerks. Officials of specialized districts (e.g., school, drainage, park districts) may be excluded from the contact list unless required pursuant to subsections (b)(1)(A) through (b)(1)(D) of this Section.

2) The person shall develop a fact sheet for the release and response action. The fact sheet shall be distributed to the contact list as derived from subsection (b)(1) of this Section. The fact sheet shall be written clearly and concisely in non-technical, non-legal terminology. The fact sheet and any required updates shall contain, at a minimum, the following information to the extent available:

A) The nature and extent of the contaminants identified on and off the site where the release occurred;

B) A brief description of the pathways of potential exposure and the potential adverse public health effects posed by the contaminants;

C) A description of any precautionary measures affected or potentially affected parties should take to avoid or reduce potential public health impacts, including potable water supply well sampling and analysis recommendations, as appropriate;

D) A non-technical description of the steps that are proposed to address the contamination, including, but not limited to, soil excavation and treatment, disposal or redistribution, pump-and-treat, bio-remediation, reliance on engineered barriers or institutional controls, groundwater monitoring, and so forth;

E) The anticipated remediation schedule through completion of the project, including any operation, maintenance or monitoring following construction of the remedy;

F) The nature of the closure documentation expected from the Agency (e.g., focused or comprehensive No Further Remediation ("NFR") Letter, permit modification, reliance on engineered barriers or institutional controls);

G) The date of preparation of the fact sheet, the name of the representative(s) of the business, site or facility from whom information and site-related documents may be obtained, and e-mail address, postal address and telephone number where the representative(s) can be reached; and

H) The name, e-mail address, postal address and telephone number of the Agency's designated staff person and a statement that additional information and site-related documents may be available by contacting the Agency's designated staff person or by filing a request for site-specific information with the appropriate Agency bureau in accordance with the Freedom of Information Act [5 ILCS 140].

c) For information that is not available when a fact sheet is prepared pursuant to subsection (b)(2) of this Section, the submission of the fact sheet to the Agency for review shall be accompanied by an explanation of why the information is unavailable at the time of the submission of the fact sheet and an estimate of when the missing information will be supplied in a revised fact sheet.

d) Fact sheets and contact lists developed in accordance with this Section shall be updated and redistributed whenever new information is obtained or developed or circumstances change so that there is a material change to the information required or provided in the fact sheet (e.g., completion of site investigation and characterization of the nature and extent of contaminants, higher concentrations of contaminants than previously detected, evidence of additional contaminants of concern or of a larger area affected by contamination, approval of plans or reports, completion of response action activities).

Section 1505.315 Community Relations Plans

a) Persons authorized by the Agency to provide notice pursuant to subsections (a) and (c) of the Act as part of community relations activities shall comply with the community relations requirements in subsection (b) of this Section if:

1) Measured or modeled groundwater contamination from the site where the release occurred (including the impact from soil contamination in concentrations exceeding the applicable remediation objectives for the soil component of the groundwater ingestion exposure route) poses a threat above the Class I groundwater quality standards at 35 Ill. Adm. Code 620 at more than five offsite private, semi-private or non-community water system wells or one or more community water system wells; or

2) Offsite soil contamination from the site where the release occurred poses a threat of exposure to the public above the appropriate Tier 1 remediation objectives for the current use(s) at more than five offsite properties.

b) The person authorized to provide notice as part of community relations activities and exceeding the limits set forth in subsection (a) of this Section shall develop and implement a community relations plan and fact sheet in accordance with this subsection (b). Appendix A of this Part contains the outline of a model community relations plan that would be appropriate for a complex site.

1) The CRP shall include, but not be limited to, the following elements to the extent related to the contaminants being addressed in the response action:

A) A description of the site or facility and details of the release and any related soil or groundwater contamination;

B) A list of community issues and concerns collected from affected, potentially affected, and interested parties identified though the process outlined in subsection (b)(1)(D) of this Section;

C) A community relations program including elements of outreach, methods for maintaining a dialogue with affected, potentially affected, and interested parties, and a schedule for activities and objectives; and

D) The process for identifying and updating the contact list, which shall consist of affected, potentially affected, and interested parties, including, but not limited to:

i) Owners of properties served by private, semi-private or non-community water systems that have been or may be impacted by groundwater contamination from the release;

ii) Owners and operators of community water system wells that have been or may be impacted by groundwater contamination from the release;

iii) Owners of properties without potable water supply wells but with groundwater that has been or may be impacted by groundwater contamination from the release;

iv) Owners of offsite properties with soil contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use(s);

v) Occupants of the properties identified in subsections (b)(1)(D)(i) and (b)(1)(D)(iv) of this Section to the extent reasonably practicable. The community relations plan shall include the methods by which the responsible party will attempt to identify the occupants;

vi) Local, State and federal officials whose jurisdiction covers the affected and potentially affected properties, including: mayor or village president, city or village clerk, township supervisors, county board chair and county clerk, city and county health department administrator, State and federal legislators; and

vii) Citizens, identified groups, organizations or businesses within a minimum of 1,000 feet from the site where the release occurred that may have an interest in learning about affected and potentially affected properties (e.g., public and private school administrators, Parent-Teacher Association leaders; day care center, senior center and nursing home management; neighborhood or homeowner association or other community leaders as identified; hospital and clinic management; and recognized environmental or citizen advisory groups). If approved by the Agency, the initial minimum distance of 1,000 feet may be expanded or contracted as the CRP and contact list are updated based on new information developed during the response action.

2) Along with the development of a CRP in accordance with subsection (b)(1) of this Section, persons subject to this subsection (b) shall develop and distribute a fact sheet for the release and response action. The fact sheet shall be distributed to the contact list as derived in subsection (b)(1)(D) of this Section. The fact sheet shall be written clearly and concisely in non-technical, non-legal terminology. If a significant portion of the population surrounding the site where the release occurred is non-English speaking, the fact sheet shall be produced and distributed in both English and the other predominant language. The fact sheet and any required updates shall contain, at a minimum, the following information to the extent available:

A) The nature and extent of the contaminants identified on-site and off-site of the site where the release occurred;

B) A brief description of the pathways of potential exposure and the potential adverse public health effects posed by the contaminants;

C) A description of any precautionary measures affected or potentially affected parties should take to avoid or reduce potential public health impacts, including potable water supply well sampling recommendations, as appropriate;

D) A non-technical description of the steps that are proposed to address the contamination, including, but not limited to, soil excavation and treatment, disposal or redistribution, pump-and-treat, bio-remediation, reliance on engineered barriers or institutional controls, groundwater monitoring, and so forth;

E) The anticipated remediation schedule through completion of the project, including any operation, maintenance or monitoring following construction of the remedy;

F) The nature of the closure documentation expected from the Agency (e.g., focused or comprehensive NFR Letter, permit modification, reliance on engineered barriers or institutional controls);

G) Responses to key community concerns as expressed by affected, potentially affected and interested parties;

H) The World Wide Web address of the Document Repository established pursuant to Section 1505.320 of this Part and the address and hours of the document repository established at a physical location, if also required pursuant to Section 1505.320 of this Part;

I) The date of preparation of the fact sheet, the name of the representative(s) of the business, site or facility from whom information and copies of repository and other site-related documents may be obtained, and e-mail address, postal address and telephone number where the representative(s) can be reached; and

J) The name, e-mail address, postal address and telephone number of the Agency's designated staff person and a statement that additional information and site-related documents may be available by contacting the Agency's designated staff person or by filing a request for site-specific information with the appropriate Agency bureau in accordance with the Freedom of Information Act [5 ILCS 140].

c) For information that is not available when a fact sheet is prepared pursuant to subsection (b)(2) of this Section, the submission of the fact sheet to the Agency for review shall be accompanied by an explanation of why the information is unavailable at the time of the submission of the fact sheet and an estimate of when the missing information will be supplied in a revised fact sheet.

d) Updates

1) Fact sheets developed in accordance with subsection (b)(2) of this Section shall be updated and redistributed whenever new information is obtained or developed or circumstances change so that there is a material change to the information required or provided in the fact sheet (e.g., completion of site investigation and characterization of the nature and extent of contaminants, higher concentrations of contaminants than previously detected, evidence of additional contaminants of concern or of a larger area affected by contamination, approval of plans or reports, completion of response action activities).

2) The CRP, including, but not limited to, the contact list shall be reviewed on a regular basis and updated, as necessary, to ensure that timely and accurate information is provided to affected, potentially affected and interested parties and communities about releases of contaminants with actual or potential impacts to offsite wells, offsite property uses, or both. A current version of the publicly available CRP shall be kept in the document repository described in Section 1505.320.

Section 1505.320 Establishment of Document Repository

Persons developing a CRP pursuant to Section 1505.315 of this Part also shall establish a document repository for the purpose of displaying documents and providing copies of those documents. The document repository shall be established at a World Wide Web site unless the person authorized to provide the notice as part of community relations activities or the Agency receives a request for a document repository at a physical location. If an individual requests a document repository at a physical location, the person authorized to provide the notice may satisfy the request by providing a complete set of copies of the documents to the party making the request. If two or more individuals, one or more groups of individuals (e.g., citizen or neighborhood groups, civic organizations), or a local government official or administrator requests a document repository at a physical location, the person authorized to provide the notice shall establish and maintain the document repository at both a World Wide Web site and at a physical location as described under subsection (c) of this Section.

a) The document repository shall include the community relations plan, all public notices (e.g., proof of publication for newspaper or other published notices, letters, door hangers, or other forms of public notification), all fact sheets, all applications, plans and reports submitted to the Agency for review and approval and subsequent Agency comment packages, and all final determinations by the Agency, such as a No Further Remediation Letter, permit modification, or other project completion documentation.

1) The person shall update the repository promptly and continuously as fact sheets, plans, reports, comment packages and Agency decisions are generated throughout the process.

2) The documents shall be created, organized and indexed so that affected, potentially affected, or interested persons can identify, locate and download documents of interest.

3) The repository shall include the business, site or facility representative's e-mail, postal address and telephone number where inquiries can be directed and persons can request copies of repository documents and other site-related documents by mail.

b) Repositories at World Wide Web Sites

1) The documents must be in a readily available format for downloading and printing (e.g, portable document format (.pdf), graphic interchange format (.gif), tagged image file format (.tiff), joint photographic group format (.jpgf)) with links to web sites where software to view and print the documents may be downloaded.

2) Documents that cannot be converted to a readily available format for downloading and printing must be described in the document index, identified as available upon request, and made available in accordance with subsection (a)(3) of this Section.

c) Repositories at Physical Locations

1) Repositories established at physical locations shall be established no later than ten business days after receipt of a request for a repository at a physical location or receipt of the Agency's notification that a request has been made to the Agency, whichever is earlier.

2) Repositories established at a physical location shall be at a public location (e.g., public library, city hall) and open to the public at times convenient to affected, potentially affected, or interested persons.

d) Information deemed trade secrets or non-disclosable in accordance with Board procedures at 35 Ill. Adm. Code 130 or Agency procedures at 2 Ill. Adm. Code 1828 may be redacted or excluded from the repository consistent with the requirement for providing the public all documents that have not been deemed confidential. Information to be added to the document repository also shall be screened to ensure that personal information identifying affected, potentially affected, or interested persons or their exact property locations are not disclosed.

e) The document repository may be discontinued no less than 180 days after the recording of the NFR Letter or the issuance of other project completion

documentation by the Agency (e.g., permit modification, closure letter, "4(y) letter" (see 415 ILCS 5/4(y))).

Section 1505.325 Submission of Fact Sheets and Community Relations Plans for Review

a) Except as provided in subsection (b) of this Section or Section 1505.330(d) of this Part, persons accepting the Agency's offer to provide notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of community relations activities shall, within 30 days after the date after their acceptance:

1) Submit to the Agency a fact sheet and contact list satisfying Section 1505.310(b) of this Part or a CRP, fact sheet and contact list satisfying the requirements of Section 1505.315(b) of this Part; and

2) Establish a web site document repository if required in accordance with Section 1505.320 of this Part.

b) Updates of CRPs, fact sheets or both and updates of contact lists prepared pursuant to Section 1505.310(d) or Section 1505.315(d) of this Part also shall be submitted for Agency review in accordance with subsection (a) of this Section, except that the updates shall be submitted to the Agency within ten days after preparing the revised CRP or developing or obtaining new information that would materially change the information required or provided in the fact sheet.

c) If authorized by the Agency, CRPs or fact sheets may be filed in specified electronic formats.

Section 1505.330 Agency Reviews of Fact Sheets and Community Relations Plans

a) The Agency shall have 30 days from receipt of a fact sheet, CRP, or updates of such documents to conduct a review and approve or disapprove of the CRP or fact sheet or approve of the CRP or fact sheet with conditions or modifications. All reviews shall be based on the standards for review set forth in subsection (b) of this Section.

1) The Agency's record of the date of receipt of a fact sheet or CRP shall be deemed conclusive unless a contrary date is proved by a signed, dated receipt from the Agency or certified mail or registered mail.

2) Persons subject to this Subpart C may waive the time period for review upon a request from the Agency or at the person's discretion.

b) When reviewing a fact sheet or CRP, the Agency shall consider:

1) Whether the CRP contains the elements required by Section 1505.315(b) of this Part;

2) Whether the fact sheet contains the elements required by Section 1505.310(b) or Section 1505.315(b) of this Part, including, but not limited to, any explanation of why specified information is unavailable at the time of the submission of the fact sheet and an estimate of when the missing information will be supplied in a revised fact sheet;

3) Whether the information in the fact sheet and CRP is consistent with the information contained in the Agency's records and any field observations; and

4) Whether the persons subject to this Subpart C have clearly defined:

A) Persons required to be included in the contact list for fact sheets in accordance with Section 1505.310(b) or Section 1505.315(b) of this Part; or

B) The demographics of nearby populations that may be affected by or concerned about site activities for purposes of notification under the CRP, including, but not limited to, residences, businesses, day care centers, schools, nursing homes, hospitals and clinics.

c) Upon completion of the review, the Agency shall notify the submitter in writing whether the fact sheet or CRP and accompanying fact sheet are approved, approved with conditions or modifications, or disapproved. The notification shall be made by certified or registered mail postmarked with a date stamp and with return receipt requested. If the Agency disapproves a fact sheet or CRP, or approves a fact sheet or CRP with conditions or modifications, the notification shall contain the following information, as applicable:

1) An explanation of the specific information or documentation, if any, that the Agency determines the submitter did not provide or is inconsistent

with the information contained in the Agency's records and any field observations;

2) A list of the provisions of this Part that may be violated if the fact sheet or CRP is approved as submitted;

3) A statement of the reasons why the provisions cited in subsection (c)(2) of this Section may be violated if the fact sheet or CRP is approved as submitted; and

4) An explanation of the reasons for conditions or modifications if conditions or modifications are required.

d) If the Agency disapproves of a fact sheet or CRP or approves of a fact sheet or CRP with conditions or modifications, the submitter shall submit a revised fact sheet, CRP, or both to the Agency within ten days after receiving the Agency's denial. If the revised fact sheet, CRP, or both are not received by the Agency within ten days, or if a revised fact sheet or CRP are not approved on the second Agency review, the Agency, in addition to any other remedies that may be available, may provide notice to the public and seek cost recovery from the submitter pursuant to Title VI-D of the Act, pursue an enforcement action against the submitter for failure to develop and implement an Agency-approved fact sheet or CRP, or both. In addition to any other defenses that may be available to the submitter, it shall be a defense to an Agency action to obtain cost recovery for notification or for an alleged violation of the requirement to develop and implement an Agency-approved fact sheet or CRP that the fact sheet or CRP submitted to the Agency and rejected satisfies the requirements for such documents as set forth in Sections 1505.310 and 1505.315 of this Part. This provision does not limit the use of this defense in other circumstances where appropriate.

e) The Agency may, to the extent consistent with review deadlines, provide the submitter with a reasonable opportunity to correct deficiencies prior to sending a disapproval of a fact sheet or CRP or an approval with conditions or modifications. However, the correction of such deficiencies by the submission of additional information may, in the sole discretion of the Agency, restart the time for review.

f) If the Agency does not issue its final determination on the fact sheet, CRP, or updates of such documents within 30 days after the receipt of the document, the document shall be deemed approved as submitted.

Section 1505.335 Implementation of Community Relations Plans and Distribution of Fact Sheets; Compliance Monitoring and Records Retention

a) Implementation of the CRP or distribution of a fact sheet shall begin within five days after the Agency's approval of the CRP or the fact sheet or within ten days after the date the document is deemed approved pursuant to Section 1505.330(f) of this Part.

b) Compliance Monitoring

1) Persons authorized by the Agency to provide notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of community relations activities shall:

A) Provide to the Agency copies of all public notices (including, but not limited to, proof of publication for newspaper or other published notices, news releases, letters, door hangers, or other forms of public notification); and

B) Inform the Agency in writing two weeks in advance of plans to hold public meetings or press conferences about site activities or developments.

2) The Agency may monitor the implementation of approved CRPs, the distribution of approved fact sheets, and the establishment and maintenance of document repositories. Steps taken by the Agency to monitor these activities may include, but shall not be limited to:

A) Independently contacting affected, potentially affected and interested persons concerning the type, completeness and timeliness of information provided under the fact sheet or CRP and at the document repository;

B) Cross-checking documentation received and generated by the Agency with documentation placed in the document repository;

C) Attending scheduled public meetings to monitor presentations and to lend Agency perspective; and

D) Making site visits to verify descriptions of site conditions and activities as stated in community relations activities.

c) The person authorized by the Agency to provide notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of community relations activities shall retain records and documents demonstrating compliance with the requirements of this Subpart C for at least one year after the recording of the NFR Letter or the issuance of other project completion documentation by the Agency (e.g., permit modification, closure letter, "4(y) letter" (see 415 ILCS 5/4(y))). The retention period for the records and documents is extended automatically during the course of any disputes or unresolved enforcement actions regarding the community relations activities or as requested in writing by the Agency. Records may be preserved and presented in an electronic format.

Section 1505.340 Compliance

No person authorized by the Agency to provide notice pursuant to subsections (a) and (c) of Section 25d-3 of the Act as part of community relations activities shall fail to comply with the requirements of this Subpart C or the provisions of community relations activities approved by the Agency.

Section 1505.APPENDIX A Contents of a Model Community Relations Plan

This Appendix A lists the key elements of a community relations plan and several factors that should be included with each element in a community relations plan prepared for a complex site. Unless otherwise required by rule, all the factors listed with each element may not be necessary for each site developing and implementing a community relations plan pursuant to this Part, but each factor should be considered when developing any community relations plan.

1. Site/Facility Description: The CRP should provide for the development a brief overview of the site where the release occurred, including, but not limited to, a description of the business, site or facility, its current operations, previous land uses and previous remedial activities; the nature and extent of known contamination; and the known or potential threat to public health and the environment. The overview should include a map to an appropriate scale detailing the site location and surrounding area and showing roads and streets, homes and businesses, and geographic and other significant features.

2. Community Issues and Concerns: The CRP should provide for the development of a brief summary of the demographics of the area surrounding the site where the release occurred, including, but not limited to, the approximate percentage of non-English speaking persons among the affected, potentially affected and interested parties and their preferred language, key community concerns, and any preferred methods of communication as learned through research work, interviews and surveys of a representative sample of affected, potentially affected and interested parties identified through the process outlined in the fourth element below.

3. Community Relations Program: The CRP should describe the community relations program objectives, action plan and schedule to keep affected, potentially affected and interested parties apprised of conditions at the site, response actions, and actual or potential public health impacts. This section also should explain how the public will be notified of mailings or meetings. The contact person(s) and contact information for public inquiries should be clearly defined. Additionally, details about the location of, and access to, the document repository should be outlined in this section of the CRP.

4. Contact List: The CRP should outline the process for identifying and updating a contact list and developing a contact database of affected, potentially affected and interested parties, including, but not limited to:

    * Owners and occupants of properties served by private, semi-private or non-community water systems that have been or may be impacted by groundwater contamination from the release;

* Owners and operators of community water system wells that have been or may be impacted by groundwater contamination from the release;

* Owners of properties without potable water supply wells but with groundwater that has been or may be impacted by groundwater contamination from the release;

* Owners and occupants of off-site properties with soil contamination posing a threat of exposure above the appropriate Tier 1 remediation objectives for the current use(s);

* Local, State and federal officials whose jurisdiction covers the affected and potentially affected properties, including: mayor or village president, city or village clerk, township supervisors, county board chair and county clerk, city and county health department administrator, State and federal legislators; and

* Citizens, identified groups, organizations or businesses within a minimum of 1,000 feet from the site where the release occurred that may have an interest in learning about affected and potentially affected properties (e.g., public and private school administrators; Parent-Teacher Association leaders; day care center, senior center and nursing home management; neighborhood or homeowner association or other community leaders as identified; hospital and clinic management; and recognized environmental or citizen advisory groups). If approved by the Agency, the initial minimum distance of 1,000 feet may be expanded or contracted as the CRP and contact list are updated based on new information developed during the response action.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Community Living Facilities Code

2) Code Citation: 77 Ill. Adm. Code 370

3) Section Number: 370.715 — Proposed Action: Amendment

4) Statutory Authority: [210 ILCS 35]

5) A Complete Description of the Subjects and Issues Involved: Part 370 regulates Community Living Facilities. Section 370.715 (Health Care Worker Background Check) is being amended to replace existing text with a requirement that facilities comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761

217/782-2043

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

e-mail: rules@idph.state.il.us

13) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Community Living Facilities

B) Reporting, bookkeeping or other procedures required for compliance: Only those required for current rules

C) Types of professional skills necessary for compliance: Only those required for current rules

14) Regulatory Agenda on which this rulemaking was summarized: January 2006

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 370
COMMUNITY LIVING FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
370.110 General Requirements
370.120 Application for License
370.130 Licensee
370.140 Issuance of an Initial License for a New Facility
370.150 Issuance of an Initial License Due to a Change of Ownership
370.160 Issuance of a Renewal License
370.165 Alzheimer's Special Care Disclosure
370.170 Denial or Revocation
370.180 Experimental Program Conflicting With Requirements
370.190 Inspections
370.200 Information to Be Made Available to the Public By the Licensee
370.210 Ownership Disclosure
370.220 Variances
370.230 Alcoholism Treatment Programs In Community Living Facilities
370.240 Definitions

SUBPART B: ADMINISTRATION

Section
370.400 Administration

SUBPART C: POLICIES

Section
370.510 Social and Vocational Training Program Policies
370.520 Admission and Discharge Policies
370.530 Agreement Between Resident and Facility
370.540 General Policies
370.550 Personnel Policies

DEPARTMENT OF PUBLIC HEALTH

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SUBPART D: PERSONNEL

Section
370.710 Personnel
370.715 Health Care Worker Background Check
370.720 Personnel Policies

SUBPART E: HEALTH MAINTENANCE SERVICES

Section
370.810 Medical Care Policies
370.820 Communicable Disease Policies
370.830 Behavior Emergencies
370.840 Medication Policies

SUBPART F: PROGRAM SERVICES

Section
370.1010 Program Evaluation
370.1020 Program and Services

SUBPART G: RECORDS

Section
370.1210 General
370.1220 Other Records
370.1230 Confidentiality

SUBPART H: FOOD SERVICE

Section
370.1410 Food Service
370.1420 Adequacy of Diet
370.1430 Therapeutic Diets
370.1440 Scheduling of Meals
370.1450 Food Preparation and Service
370.1460 Food Handling Sanitation
370.1470 Kitchen Equipment, Utensils and Supplies

SUBPART I: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

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Section
370.1610 Maintenance
370.1620 Housekeeping
370.1630 Laundry Services

SUBPART J: FURNISHINGS, EQUIPMENT AND SUPPLIES

Section
370.1810 Furnishings
370.1820 Equipment and Supplies

SUBPART K: WATER SUPPLY AND SEWAGE DISPOSAL

Section
370.2010 Codes
370.2020 Water Supply
370.2030 Sewage Disposal
370.2040 Plumbing

SUBPART L: DESIGN AND CONSTRUCTION STANDARDS FOR NEW COMMUNITY LIVING FACILITIES

Section
370.2210 Applicability of Standards
370.2220 Codes and Standards
370.2230 Preparation of Drawings and Specifications
370.2240 Site
370.2250 Administration
370.2260 Bedrooms
370.2270 Nurses' Station
370.2280 Bath and Toilet Rooms
370.2290 Living, Dining Room, and Activity Room(s)
370.2300 Kitchen
370.2310 Laundry Room
370.2320 Housekeeping and Storage
370.2330 Building General
370.2340 Exit Facilities and Subdivision of Floor Areas
370.2350 Stairways and Vertical Openings
370.2360 Hazardous Areas

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NOTICE OF PROPOSED AMENDMENT

370.2370 Structural
370.2380 Mechanical Systems
370.2390 Plumbing Systems
370.2400 Electrical Systems
370.2410 Fire Alarm and Detection System
370.2420 Emergency Electrical System
370.2430 Fire Protection

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING COMMUNITY LIVING FACILITIES

Section
370.2610 Applicability of Standards
370.2620 Codes and Standards
370.2630 Preparation of Drawings and Specifications
370.2640 Site
370.2650 Administration and Public Areas
370.2660 Bedrooms
370.2670 Nurses' Station
370.2680 Bath and Toilet Rooms
370.2690 Living, Dining Room, and Activity Room(s)
370.2700 Kitchen
370.2710 Laundry Room
370.2720 Housekeeping and Storage
370.2730 Building General
370.2740 Exit Facilities and Subdivision of Floor Areas
370.2750 Stairways and Vertical Openings
370.2760 Hazardous Areas
370.2770 Structural
370.2780 Mechanical Systems
370.2790 Plumbing Systems
370.2800 Electrical Systems
370.2810 Fire Alarm and Detection System
370.2820 Emergency Electrical System
370.2830 Fire Protection

SUBPART N: RESIDENT'S RIGHTS

Section
370.3010 General

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

370.3020 Medical and Personal Care Program
370.3030 Restraints
370.3040 Abuse and Neglect
370.3050 Communication and Visitation
370.3060 Resident's Funds
370.3070 Private Right of Action
370.3080 Transfer and/or Discharge
370.3090 Complaint Procedures
370.3100 Confidentiality
370.3110 Facility Implementation

370.APPENDIX A Program Standards
370.APPENDIX B Sanitizing Solutions

AUTHORITY: Implementing and authorized by the Community Living Facilities Act [210 ILCS 35].

SOURCE: Emergency rules adopted at 6 Ill. Reg. 379, effective January 1, 1982, for a maximum of 150 days; adopted at 6 Ill. Reg. 6226, effective May 19, 1982; codified at 8 Ill. Reg. 19476; amended at 8 Ill. Reg. 24706, effective December 7, 1984; emergency amendment at 17 Ill. Reg. 9117, effective June 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19509, effective November 1, 1993; emergency amendments at 20 Ill. Reg. 456, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 9982, effective July 15, 1996; amended at 22 Ill. Reg. 3919, effective February 13, 1998; amended at 23 Ill. Reg. 993, effective January 15, 1999; amended at 24 Ill. Reg. 17182, effective November 1, 2000; amended at 26 Ill. Reg. 11982, effective July 31, 2002; emergency amendment at 27 Ill. Reg. 7953, effective April 30, 2003, for a maximum of 150 days; emergency expired September 26, 2003; amended at 27 Ill. Reg. 18183, effective November 12, 2003; amended at 30 Ill. Reg. _____, effective _____.

SUBPART D: PERSONNEL

Section 370.715 Health Care Worker Background Check

A facility shall comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

~~a) The facility shall not *knowingly hire any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of* the following *offenses* (Section 25(a) of~~

DEPARTMENT OF PUBLIC HEALTH

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~~the Health Care Worker Background Check Act [225 ILCS 46/25]):~~

~~1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));~~

~~2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));~~

~~3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5, and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386));~~

~~4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4));~~

~~5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));~~

~~6) Assault, battery, heinous battery, tampering with foods, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b));~~

~~7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));~~

~~8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));~~

~~9) Criminal sexual assault or criminal sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491));~~

~~10) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));~~

~~11) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));~~

~~12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));~~

~~13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));~~

~~14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388, 389, 393 to 400, 404a to 404c, 438, 492 to 496));~~

~~15) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));~~

~~16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));~~

~~17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));~~

~~18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);~~

~~19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501));~~

~~20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));~~

~~21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238));~~

~~22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e and 414g));~~

~~23) Armed violence – elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));~~

~~24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));~~

~~25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));~~

~~26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, delivery to person under 18, violation by person under 18 (Sections 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or~~

~~27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).~~

~~b) The facility shall not *knowingly employ or retain any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1) to (27) of this Section *unless the applicant, employee* or employer *obtains a waiver pursuant to* this Section. (Section 25(a) of the Health Care Worker Background Check Act)~~

~~c) *A* facility *shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in* subsections (a)(1) to (27) of this Section*, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided.* (Section 25(b) of the Act)~~

~~d) For the purpose of this Section:~~

~~1) *"Applicant" means an individual seeking employment with* a facility *who has received a bona fide conditional offer of employment.*~~

~~2) *"Conditional offer of employment" means a bona fide offer of employment by a* facility *to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses* listed in subsections (a)(1) to (27) of this Section.~~

3) *"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.*

4) *"Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee.* (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:

1) The employee's assigned job responsibilities as set forth in the employee's job description;

2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and

3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.

f) *Beginning January 1, 1996*, when the facility *makes a conditional offer of employment to an applicant* who is not exempt under subsection (w) of this Section, *for a position with duties that involve direct care for residents,* the employer *must initiate or have initiated on* its *behalf a* Uniform Conviction Information Act (UCIA) *criminal history record check for that applicant.* (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.

g) *The* facility *shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization.* (Section 15 of the Health Care Worker Background Check Act)

h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

i) *The request for a UCIA criminal history record check shall be* made as *prescribed by the Department of State Police. The applicant or employee must be notified of*

~~*the following whenever a non-fingerprint-*based UCIA criminal history record *check is made:*~~

~~1) *That the* facility *shall request or have requested on its behalf a* non-fingerprint-based *UCIA criminal history record check pursuant to* the Health Care Worker Background Check *Act.*~~

~~2) *That the applicant or employee has a right to obtain a copy of the criminal records report from the* facility*, challenge the accuracy and completeness of the report, and request a waiver* in accordance with this Section.~~

~~3) *That the applicant, if hired conditionally, may be terminated if the* non-fingerprint-based *criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1) to (27) of this Section *unless the applicant's identity is validated and it is determined that the applicant* or employee *does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to* subsection (k) of this Section.~~

~~4) *That the applicant, if not hired conditionally, shall not be hired if the* non-fingerprint-based *criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1) to (27) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (k) of this Section.~~

~~5) *That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1) to (27) of this Section *unless the employee's record is cleared based on a fingerprint-based records check pursuant to* subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)~~

~~j) *A* facility *may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check.* (Section 30(g) of the Health Care Worker Background Check Act)~~

~~k) *An applicant or employee whose* non-fingerprint-based *UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses* listed in subsections (a)(1) to (27) of this Section *may*~~

~~*request that the* facility *or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police.* (Section 35 of the Health Care Worker Background Check Act)~~

~~l) *A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of* the *Act must initiate a fingerprint-based background check within 10 working days* after *acquiring that knowledge. The* facility *may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received.* (Section 30(d) of the Health Care Worker Background Check Act)~~

~~m) *An applicant, employee* or employer *may request a waiver* to subsection (a), (b) or (c) of this Section *by submitting the following to* the Department *within five working days after the receipt of the criminal records report:*~~

~~1) A completed *fingerprint-based UCIA criminal records check* form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and~~

~~2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.~~

~~n) *The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by* subsections (m)(1) and (2) above.~~

~~o) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:~~

~~1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and~~

~~2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.~~

~~p)~~ ~~The Department *may grant a waiver based on mitigating circumstances, which may include:*~~

~~1)~~ ~~*The age of the individual at which the crime was committed;*~~

~~2)~~ ~~*The circumstances surrounding the crime;*~~

~~3)~~ ~~*The length of time since the conviction;*~~

~~4)~~ ~~*The applicant's or employee's criminal history since the conviction;*~~

~~5)~~ ~~*The applicant's or employee's work history;*~~

~~6)~~ ~~*The applicant's or employee's current employment references;*~~

~~7)~~ ~~*The applicant's or employee's character references;*~~

~~8)~~ ~~*Nurse Aide Registry records; and*~~

~~9)~~ ~~*Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents*, which may include, but is not limited to the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b) of the Health Care Worker Background Check Act)~~

~~q)~~ ~~Waivers will not be granted to individuals who have not met the following time frames. "disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:~~

~~1)~~ ~~Single disqualifying misdemeanor conviction = waiver consideration no earlier than one year after the conviction date;~~

2) ~~Two to three disqualifying misdemeanor convictions = waiver consideration no earlier than three years after the most recent conviction date;~~

3) ~~More than three disqualifying misdemeanor convictions = waiver consideration no earlier than five years after the most recent conviction date;~~

4) ~~Single disqualifying felony convictions = waiver consideration no earlier than three years after the conviction date;~~

5) ~~Two to three disqualifying felony convictions = waiver consideration no earlier than five years after the most recent conviction date;~~

6) ~~More than three disqualifying felony convictions = waiver consideration no earlier than ten years after the most recent conviction date.~~

r) ~~Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:~~

1) ~~Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);~~

2) ~~Murder, homicide, manslaughter, or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3]);~~

3) ~~Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);~~

4) ~~Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);~~

5) ~~Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);~~

6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);

7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);

10) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1]);

11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), *based on mitigating circumstances* (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)

t) *An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with* subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

~~u)~~ ~~A facility *is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver.* (Section 40(f) of the Health Care Worker Background Check Act)~~

~~v)~~ ~~A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:~~

~~1)~~ ~~certified court records;~~

~~2)~~ ~~written verification from the State's Attorney's office that prosecuted the conviction at issue;~~

~~3)~~ ~~written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;~~

~~4)~~ ~~a signed affidavit from the individual concerning the validity of the report; or~~

~~5)~~ ~~documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.~~

~~w)~~ ~~This Section *shall not apply to:*~~

~~1)~~ ~~*An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;*~~

~~2)~~ ~~*An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or*~~

~~3)~~ ~~*A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents.* (Section 20 of the Health Care~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

~~Worker Background Check Act)~~

~~x)~~ ~~*An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to* January 1, 1998*. This subsection applies only to persons employed prior to* January 1, 1998*. Any person newly employed on or after* January 1, 1998 *must receive a background check as required by Section 30* of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)~~

~~y)~~ ~~*The* facility *shall send a copy of the results of the UCIA* criminal history *record check to the State Nurse Aide Registry* for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.~~

~~z)~~ ~~*The* facility *shall retain on file for a period of 5 years records of criminal records requests for all employees. The* facility *shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the* Department. *A fine of $500* shall *be imposed for failure to maintain these records.* (Section 50 of the Health Care Worker Background Check Act)~~

~~aa)~~ ~~The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Match Rival

2) Code Citation: 11 Ill. Adm. Code 315

3)

Section Numbers:	Proposed Action:
315.10	Amend
315.20	Amend
315.30	New

4) Statutory Authority: 230 ILCS 5/9(b)

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking will permit more flexibility in the method in which winning selections are assigned point values. Currently, when one selected the first to cross the finish line, they were given a value of one. Under this rulemaking, other methods of point distribution will be an option such as 5 points for win, 3 points for place and 1 point for show. Another option may be to assign the pari-mutuel payoff for the winner for each race and total up those prices to determine the winner. This variation of the Match Rival will afford racetracks the opportunity to enhance the wagering product.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed amendments pending in this Part? No

11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

Suite 7-701
Chicago, Illinois 60601

(312) 814-5017

13) Initial Regulatory Flexibility Analysis:

A) Types of small business affected: None

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on the 2006 Regulatory Agenda, because the need for the rulemaking was not anticipated at the time of publication.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 315
MATCH RIVAL

Section
315.10 General
315.20 Pool Distribution
315.30 Scratches

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 21 Ill. Reg. 6579, effective May 19, 1997; amended at 22 Ill. Reg. 2214, effective January 1, 1998; amended at 30 Ill. Reg. _____, effective _____.

Section 315.10 General

a) The match rival wager requires the selection of the winning contestant in a competition between two or more equally matched betting interests or based on the sportsmanship and/or skill of the jockeys/drivers and/or trainers in a designated contest or series of contests regardless of the official placing of the other betting interests in that contest or series of contests. The match rival wager shall be calculated in an entirely separate pool.

b) Match rival wagers shall not be sold in denominations of less than $2.

c) The match rival rules shall be prominently displayed in the official program each day the match rival wager is offered.

d) The organization licensee may re-name this wager, but shall notify the State Director of Mutuels of the name that will be used.

e) The Racing Secretary, with the advice~~advise~~ and consent of the stewards, shall determine the contestants for each match rival contest. The matching of contestants for the match rival shall be limited to horse versus horse, jockey versus jockey, driver versus driver and/or trainer versus trainer.

f) The contestants chosen for the match rival wager shall be conspicuously identified in the official program.

g) The organization licensee shall deduct the appropriate take-out and taxes as established in the Illinois Horse Racing Act of 1975~~Act~~. Match rival wagers consisting of a single contest shall be considered a single wager. Match rival wagers consisting of two contests shall be considered a feature wager. Match rival wagers consisting of three or more contests shall be considered a multiple wager.

h) The organization licensee may select one of the following methods for conducting its match rival pool. The method selected, as well as the payouts used and points assigned, shall be conspicuously identified in the official program.

1) Method 1, a single contest determined by the first to arrive at the finish line;

2) Method 2, a series of contests determined by the first to arrive at the finish line;

3) Method 3, a series of contests determined by the total accumulated points based on the finish order of the contests; or

4) Method 4, a series of contests determined by the total accumulated points based on the on-track pari-mutuel payoff of the contests. Either the win, win and place, or win, place and show payouts may be used.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 315.20 Pool Distribution

The net match rival pool shall be distributed to winning wagers based upon the official order of finish as a single price pool to those whose selection arrives at the finish line first in a single contest or contains the most winners or has accumulated the highest point total in a series of contests.

a) In the event all~~both~~ contestants in this wager fail to finish in a single event contest or the contest is cancelled or declared no contest, the entire match rival pool shall be refunded~~ for that wager~~.

b) In a series of contests of a match rival wager, more than half of the contests must be completed or the entire wager shall be cancelled~~canceled~~ and the entire match rival pool refunded.

c) In the event there is a dead heat in a single event contest in which there are only two contestants, the entire pool shall be refunded for that wager. In the event there is a dead heat in a single event in which there are three or more contestants, or in one or more races in a series of contests, all contestants involved in the dead heat shall be considered winners.

~~d) In the event any contestant is scratched or declared a non-starter by the Stewards in any match rival contest, that contest shall be cancelled.~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 315.30 Scratches

a) In a single event contest, if any betting contestant is scratched or declared a non-starter by the Stewards, all wagers including the scratched contestant shall be refunded. If less than two valid betting interests remain, the contest shall be cancelled and all wagers refunded.

b) In a series of contests where the method of selecting the first to arrive at the finish line is used, or where the method of total accumulated points based on the finish order of the contests is used, in the event any contestant is scratched or declared a non-starter by the Stewards, then that particular contest in the series shall be cancelled. If fewer than two valid betting interests remain, the contest shall be cancelled and all wagers refunded.

c) In a series of contests where the method of the total accumulated points based on the on-track pari-mutuel payout is used, in the event any contestant is scratched or declared a non-starter by the Stewards that results in the contestants being a valid betting interest in zero contests, all wagers including the scratched contestant shall be refunded. If fewer than two valid betting interests remain, the contest shall be cancelled and all wagers refunded.

d) In a series of contests where the method of the total accumulated points is used based on the pari-mutuel payout and the contestant is a jockey or driver, if there is a jockey or driver change in any contest and that horse wins the contest (in the

context of this Section), then that particular contest in the series shall be cancelled.

(Source: Added at 30 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

1) Heading of the Part: Exacta Double

2) Code Citation: 11 Ill. Adm. Code 320

3)

Section Numbers:	Proposed Action:
320.10	New
320.20	New
320.30	New
320.40	New
320.50	New

4) Statutory Authority: 230 ILCS 5/9(b)

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking will require the selection of the first two finishers, in exact order, in each of the two specified races. Scratches in the second leg after the first leg has run will result in a consolation payoff, much like the current Daily Double rule. Since this new wager requires two consecutive exactas, the increased payout possibilities should make this a wagering option for all levels of handicapping expertise.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

Suite 7-701
Chicago, Illinois 60601

(312) 814-5017

13) Initial Regulatory Flexibility Analysis:

A) Types of small business affected: None

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on the 2006 Regulatory Agenda, because the need for the rulemaking was not anticipated at the time of publication.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 320
EXACTA DOUBLE

Section
320.10 General
320.20 Pool Distribution
320.30 Dead Heats
320.40 Scratches
320.50 Races Cancelled

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 30 Ill. Reg. _____, effective _____.

Section 320.10 General

a) The exacta double requires the selection of the first two finishers, in exact order, in each of two specified contests.

b) Exacta double wagers shall be calculated in an entirely separate pool.

c) An organization licensee offering the exacta double wager may rename the wager so long as the name adopted by the organization licensee remains the same throughout the race meet.

d) Entries and fields shall be allowed in the exacta double without restriction.

e) Exacta double wagers shall be considered a feature wager.

Section 320.20 Pool Distribution

The net exacta double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish.

a) As a single price pool to those who selected, in exact order, the first two finishers in each of the two exacta double contests; but if there are no such wagers, then

b) As a profit split pool to those who selected, in exact order, the first two finishers in either of the two exacta double contests; but if there are no such wagers on one of those contests, then

c) As a single price pool to those who selected, in exact order, the first two finishers in the one covered exacta double contest; but if there are no such wagers, then

d) The entire pool shall be refunded on exacta double wagers for those contests.

Section 320.30 Dead Heats

a) If there is a dead heat for first in either of the two contests involving:

1) Contestants representing the same betting interest, the exacta double pool shall be distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest.

2) Contestants representing two or more separate betting interests, the exacta double pool shall be distributed as a profit split.

b) If there is a dead heat for second in either of the two contests involving:

1) Contestants representing the same betting interest, the exacta double pool shall be distributed as if no dead heat occurred.

2) Contestants representing two or more betting interests, the exacta double pool shall be distributed as a profit split.

Section 320.40 Scratches

a) Should a betting interest in the first half of the exacta double contest be scratched prior to the first exacta double contest being declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the exacta double pool and refunded.

b) Should a betting interest in the second half of the exacta double contest be scratched prior to the close of wagering on the first exacta double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the exacta double pool and refunded.

c) Should a betting interest in the second exacta double contest be scratched after the close of wagering on the first exacta double contest, all wagers combining the winning combination in the first exacta double contest with a combination including the scratched betting interest in the second exacta double contest shall be allocated a consolation payoff. In calculating the consolation payoff, the net exacta double pool shall be divided by the total amount wagered on the winning combination in the first exacta double contest and an unbroken consolation price obtained. The unbroken consolation price is multiplied by the dollar value of wagers on the winning combination in the first exacta double contest combined with a combination including then scratched betting interest in the second exacta double contest to obtain the consolation payout. Breakage is not declared in this calculation. The consolation payout is deducted from the net exacta double pool before calculation and distribution of the winning exacta double payout. In the event of a dead heat, the net exacta double pool shall be distributed as a profit.

Section 320.50 Races Cancelled

a) If either of the exacta double contests is cancelled prior to the first exacta double contest, or the first exacta double contest is declared "no contest", the entire exacta double pool shall be refunded on exacta double wagers for those contests.

b) If the second exacta double contest is cancelled or declared "no contest" after the conclusion of the first exacta double contest, the net exacta double pool shall be distributed as a single price pool to wagers selecting, in exact order, the first two finishers in the first exacta double contest. If there are no wagers selecting the winning combination in the first exacta double contest, the entire exacta double pool shall be refunded on exacta double wagers for those contests.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

1) Heading of the Part: WPS Pick (n)

2) Code Citation: 11 Ill. Adm. Code 323

3)

Section Numbers:	Proposed Action:
323.10	New
323.20	New
323.30	New
323.40	New
323.50	New
323.60	New
323.70	New
323.80	New

4) Statutory Authority: 230 ILCS 5/9(b)

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking will require selecting either the win, place or show finishers in each of a series of races. For example, in a six leg wager, the first three races may require selecting the show finishers. The next two races may require the selection of the place finishers. Finally, the last leg may require the selection of the winner. This new wager will allow for many more of the fans to be "live" after each leg, increasing interest and participation in a wager that offers the chance for substantial payouts.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

(312) 814-5017

13) Initial Regulatory Flexibility Analysis:

A) Types of small business affected: None

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on the 2006 Regulatory Agenda, because the need for the rulemaking was not anticipated at the time of publication.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 323
WPS PICK (N)

Section

323.10 General
323.20 Pool Distribution
323.30 Dead Heats
323.40 Scratches
323.50 Races Cancelled
323.60 Carryover Cap
323.70 Mandatory Distribution
323.80 Disclosure

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 30 Ill. Reg. _____, effective _____.

Section 323.10 General

a) The WPS (win, place, show) Pick (n) requires selection of a winning contestant in each of a designated number of contests. Each individual contest in the WPS Pick (n) will be designated as a win contest, place contest, or show contest.

b) A win contest requires the selection of the first place finisher, a place contest requires the selection of a first or second place finisher, and a show contest requires the selection of a first or second or third place finisher.

c) The organization licensee shall designate the number of contests, whether each individual contest is a win, place, or show contest, and the method for pool calculation prior to the start of its meet.

d) The organization licensee shall submit, in writing, its intent to offer the WPS Pick (n) wager to the State Director of Mutuels no later than 30 days prior to the start of its meet.

e) An organization licensee offering the WPS Pick (n) wager may rename the wager so long as the name adopted by the organization licensee remains the same throughout the race meet.

f) WPS Pick (n) wagers shall be calculated in an entirely separate pool.

Section 323.20 Pool Distribution

The organization licensee may select one of the following methods for conducting its WPS Pick (n) pool. As used in this Part, "major pool" is defined as 75% of the daily net pool and "minor pool" is defined as 25% of the daily net pool. Any deviation from the major/minor pool percentage division must be approved by the State Director of Mutuels.

a) Method 1, WPS Pick (n) with Carryover: The net WPS Pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected a winning contestant in each of the WPS Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected a winning contestant in the greatest number of WPS Pick (n) contests and the remainder shall be added to the carryover.

b) Method 2, WPS Pick (n) with Minor Pool and Carryover: The major share of the net WPS Pick (n) pool and the carryover, if any, shall be distributed to those who selected a winning contestant in each of the WPS Pick (n) contests, based upon the official order of finish. The minor share of the net WPS Pick (n) pool shall be distributed to those who selected a winning contestant in the second greatest number of WPS Pick (n) contests, based upon the official order of finish. If there are no wagers selecting a winning contestant of all WPS Pick (n) contests, the minor share of the net WPS Pick (n) pool shall be distributed as a single price pool to those who selected a winning contestant in the greatest number of WPS Pick (n) contests and the major share shall be added to the carryover.

c) Method 3, WPS Pick (n) with No Minor Pool and No Carryover: The netWPS Pick (n) pool shall be distributed as a single price pool to those who selected a winning contestant in the greatest number of WPS Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

d) Method 4, WPS Pick (n) with Minor Pool and No Carryover: The major share of the net WPS Pick (n) pool shall be distributed to those who selected a winning

contestant in the greatest number of WPS Pick (n) contests, based upon the official order of finish. The minor share of the net WPS Pick (n) pool shall be distributed to those who selected a winning contestant in the second greatest number of WPS Pick (n) contests, based upon the official order of finish. If there are no wagers selecting a winning contestant in a second greatest number of WPS Pick (n) contests, the minor share of the net WPS Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected a winning contestant in the greatest number of WPS Pick (n) contests. If the greatest number of winning contestants selected is one, the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

e) Method 5, WPS Pick (n) with Minor Pool and No Carryover: The major share of net WPS Pick (n) pool shall be distributed to those who selected a winning contestant in each of the WPS Pick (n) contests, based upon the official order of finish. The minor share of the net WPS Pick (n) pool shall be distributed to those who selected a winning contestant in the second greatest number of WPS Pick (n) contests, based upon the official order of finish. If there are no wagers selecting a winning contestant in all WPS Pick (n) contests, the entire net WPS Pick (n) pool shall be distributed as a single price pool to those who selected a winning contestant in the greatest number of WPS Pick (n) contests. If there are no wagers selecting a winning contestant in a second greatest number of WPS Pick (n) contests, the minor share of the net WPS Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected a winning contestant in each of the WPS Pick (n) contests. If there are no winning wagers, the pool is refunded.

f) Method 6, WPS Pick (n) with Minor Pool and Carryover: The net WPS Pick (n) pool and carryover, if any, shall be distributed to those who selected a winning contestant in each of the WPS Pick (n) contests, based upon the official order of finish. If there are no wagers selecting a winning contestant in all WPS Pick (n) contests, two-thirds of the net pool (major pool) or one-half of the total gross pool, whichever is greater, shall be distributed as a single price pool to those who present a valid pari-mutuel wager for that WPS Pick (n) pool and the remaining one-third of the net pool shall be added to the carryover. The minimum pay-off provisions contained in 11 Ill. Adm. Code 405.130 shall not apply when distributing the major pool in this pool calculation.

Section 323.30 Dead Heats

a) If there is a dead heat for first, second, or third in any of the WPS Pick (n) contests involving contestants representing the same betting interest, the WPS Pick (n) pool shall be distributed as if no dead heat occurred.

b) If there is a dead heat for first in any of the WPS Pick (n) contests designated as a win contest involving contestants representing two or more betting interests, the WPS Pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

c) If there is a dead heat for first in any of the WPS Pick (n) contests designated a place or show contest involving contestants representing two or more betting interests, the WPS Pick (n) pool shall be distributed as if no dead heat occurred.

d) If there is a dead heat for second in any of the WPS Pick (n) contests designated as a win or show contest, the WPS Pick (n) pool shall be distributed as if no dead heat occurred.

e) If there is a dead heat for second in any of the WPS Pick (n) contests designated as a place contest, involving contestants representing two or more betting interests, the WPS Pick (n) pool shall be distributed as a single price pool with each winning wager including each betting interest that finished first or any betting interest involved in the dead heat for second.

f) If there is a dead heat for third in any of the WPS Pick (n) contests designated as a win or place contest, the WPS Pick (n) pool shall be distributed as if no dead heat occurred.

g) If there is a dead heat for third in any of the WPS Pick (n) contests designated as a show contest, involving contestants representing two or more betting interests, the WPS Pick (n) pool shall be distributed as a single price pool with each winning wager including each betting interest that finished first or second or any betting interest involved in the dead heat for third.

Section 323.40 Scratches

Should a betting interest in any of the WPS Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the closing of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce

reports showing each of the wagering combinations with substituted betting interests that became winners as a result of the substitution, in addition to the normal winning combination.

Section 323.50 Cancelled Races

a) The WPS Pick (n) pool shall be cancelled and all WPS Pick (n) wagers for the individual performance shall be refunded if:

1) At least two contests included as part of a WPS Pick 3 are cancelled or declared "no contest".

2) At least three contests included as part of a WPS Pick 4 or WPS Pick 5 are cancelled or declared "no contest".

3) At least four contests included as part of a WPS Pick 6 or WPS Pick 7 are cancelled or declared "no contest".

4) At least five contests included as part of a WPS Pick 8 or WPS Pick 9 are cancelled or declared "no contest".

5) At least six contests included as part of a WPS Pick 10 or WPS Pick 11 are cancelled or declared "no contest".

b) If at least one contest included as part of a WPS Pick (n) is cancelled or declared "no contest", but not more than the number specified in subsection (a), the net pool shall be distributed as a single price pool to those who selected a winning contestant in the greatest number of WPS Pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the WPS Pick (n) carryover but not the carryover from previous performances.

Section 323.60 Carryover Cap

The WPS Pick (n) carryover may be capped at a designated level approved by the State Director of Mutuels so that if, at the close of any performance, the amount in the WPS Pick (n) carryover equals or exceeds the designated cap, the WPS Pick (n) carryover will be frozen until it is won or distributed under Section 323.70. After the WPS Pick (n) carryover is frozen, 100% of the net pool, part of which ordinarily would be added to the WPS Pick (n) carryover, shall be distributed to those who selected a winning contestant in the greatest number of WPS Pick (n) contests for that performance.

Section 323.70 Mandatory Distribution

a) A written request for permission to distribute the WPS Pick (n) carryover on a specific performance may be submitted to the State Director of Mutuels. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

b) Should the WPS Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting a winning contestant in each of the WPS Pick (n) contests, the entire pool shall be distributed as a single price pool to those who selected a winning contestant in the greatest number of WPS Pick (n) contests. The WPS Pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

1) Upon written approval from the State Director of Mutuels as provided for in subsection (a).

2) Upon written approval from the State Director of Mutuels when there is a change in the carryover cap, a change from one type of WPS Pick (n) wagering to another, or the WPS Pick (n) is discontinued.

3) On the closing performance of the meet, split meet or successive or intervening race meeting at the same race track.

c) If, for any reason, the WPS Pick (n) carryover must be held over to the corresponding WPS Pick (n) of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Sate Director of Mutuels. The WPS Pick (n) carryover plus accrued interest shall then be added to the net WPS Pick (n) pool of the following meet on a date and performance designated by the State Director of Mutuels.

d) With written approval of the Board, the organization licensee may contribute to the WPS Pick (n) carryover a sum of money up to any cap designated by the Board.

Section 323.80 Disclosure

The organization licensee may display potential distribution to ticket holders depending on the outcome of the appropriate WPS Pick (n) contest.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 16

3) Section Number: 16.APPENDIX A
Proposed Action: Amend

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25].

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to amend Section 16.Appendix A to add numerous publicly-owned airports to the Part. This Part prescribes requirements for administration and enforcement that restrict the height of structures, equipment, and vegetation, and that regulate the use of property, on or in the vicinity of publicly-owned airports. The following airports will be covered under this Part upon adoption of this proposed rulemaking: Harrisburg-Raleigh Airport (HSB), Galesburg Municipal Airport (GBG), Lansing Municipal Airport (IGQ), Joliet Regional Airport (JOT), Mount Hawley Auxiliary Airport (3MY), Greater Peoria Regional Airport (PIA), Cairo Regional Airport (CIR), DeKalb Taylor Municipal Airport (DKB), Ingersoll Airport (CTK), Williamson County Regional Airport (MWA), Benton Municipal Airport (H96), Coles County Memorial Airport (MTO), DuPage Airport (DPA), Decatur Airport (DEC), Jacksonville Municipal Airport (IJX), Lewis University Airport (LOT), Edgar County Airport (PRG), Kewanee Municipal Airport (EZI), and Illinois Valley Regional Airport (VYS).

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

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

Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Any future development, business, or small municipality located in the vicinity of those airports being added to this Part may be affected by this rulemaking. Additionally, other proposed objects situated under the surfaces described in Sections 16.40 - 16.110 such as farm ground, grain elevators, power companies, cell towers, radio towers, TV towers, etc., may also be impacted by this rulemaking. However, this proposed rulemaking has no impact on pre-existing businesses per Section 16.140.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

B) Reporting, bookkeeping or other procedures required for compliance: The Division must be notified concerning objects on airport property. (See Section 16.160.) For objects off airport property, the person or sponsor will be directed by the Division to notify the FAA. No bookkeeping requirements are anticipated.

C) Types of professional skills necessary for compliance: If supplemental information (certified engineering/survey data) from a professional engineer, architect or surveyor concerning the proposed site location and height is requested under Section 16.160(c)(2)(C), compliance with this request will be necessary.

14) Regulatory Agenda on which this rulemaking was summarized: This proposed amendment was not included on either of the 2 most recent agendas because the Department could not anticipate the timing of the need for the amendment.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 16
AIRPORT HAZARD ZONING

Section

16.10 Purpose and Scope
16.20 Applicability
16.30 Definitions
16.35 Public Hearings
16.40 Surfaces and Height Limitations
16.50 Horizontal Surface
16.60 Conical Surface
16.70 Primary Surface
16.80 Approach Surface
16.90 Transitional Surfaces
16.100 Circling Approach Surface
16.110 Instrument Approach Obstruction Clearance Surface
16.120 Heliport/Vertiport Surfaces
16.130 Use Restrictions
16.140 Pre-Existing, Non-Conforming Uses (Grandfather Clause)
16.150 Pre-Existing, Non-Conforming Structures, Uses, or Vegetation Abandoned or Destroyed
16.160 Notice of Construction or Alteration of Any Structure
16.170 Permits
16.180 Variances
16.190 Administrative and Judicial Review
16.200 Penalties
16.210 Conflicting Regulations
16.220 Severability
16.APPENDIX A Applicable Airports
16.ILLUSTRATION A Airports Imaginary Surfaces
16.ILLUSTRATION B Airports (Public- or Private-Use) Minimum Dimensional Standards
16.ILLUSTRATION C Obstruction Standards (≤ 6 Nautical Miles)
16.ILLUSTRATION D Obstruction Standards (> 6 Nautical Miles)
16.ILLUSTRATION E Public- or Private-Use Heliport/Vertiport Minimum Dimensional Standards

AUTHORITY: Implementing and authorized by the Airport Zoning Act [620 ILCS 25].

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted at 28 Ill. Reg. 2421, effective January 26, 2004; amended at 29 Ill. Reg. 12529, effective July 27, 2005; amended at 30 Ill. Reg. _____, effective _____.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

Section 16.APPENDIX A Applicable Airports

Airport	City	County	ARP Latitude	ARP Longitude	Fed Std.	State Std.	Applicable Date
SPI	Springfield	Sangamon	39-50.64	89-40.66	X		Jan. 26, 2004
MLI	Moline	Rock Island	41-26.91	90-30.45	X		July 29, 2005
SQI	Sterling-Rock Falls	Whiteside	41-44.57	89-40.58	X		July 29, 2005
SLO	Salem	Marion	38-38.57	88-57.85	X		July 29, 2005
H96	Benton	Franklin	38-00.41	88-56.07	X		Sept. 15, 2006
CIR	Cairo	Alexander	37-03.87	89-13.18	X		Sept. 15, 2006
CTK	Canton	Fulton	40-34.15	90-04.49	X		Sept. 15, 2006
DEC	Decatur	Macon	39-50.08	88-51.94	X		Sept. 15, 2006
DKB	DeKalb	DeKalb	41-56.02	88-42.34	X		Sept. 15, 2006
GBG	Galesburg	Knox	40-56.28	90-25.87	X		Sept. 15, 2006
HSB	Harrisburg	Saline	37-48.69	88-32.95	X		Sept. 15, 2006
IJX	Jacksonville	Morgan	39-46.48	90-14.30	X		Sept. 15, 2006
JOT	Joliet	Will	41-31.08	88-10.52	X		Sept. 15, 2006
EZI	Kewanee	Henry	41-12.31	89-57.83	X		Sept. 15, 2006
IGQ	Lansing	Cook	41-32.09	87-31.77	X		Sept. 15, 2006
MWA	Marion	Williamson	37-45.30	89-00.67	X		Sept. 15, 2006
MTO	Mattoon	Coles	39-28.68	88-16.75	X		Sept. 15, 2006
PRG	Paris	Edgar	39-42.01	87-40.17	X		Sept. 15, 2006
3MY	Peoria	Peoria	40-47.72	89-36.80	X		Sept. 15, 2006
PIA	Peoria	Peoria	40-39.86	89-41.60	X		Sept. 15, 2006
VYS	Peru	LaSalle	41-21.11	89-09.19	X		Sept. 15, 2006
LOT	Romeoville	Will	41-36.44	88-05.77	X		Sept. 15, 2006
DPA	West Chicago	DuPage	41-54.47	88-14.92	X		Sept. 15, 2006

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Benton Municipal Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 20

3)

Section Numbers:	Proposed Action:
20.5	Repeal
20.10	Repeal
20.20	Repeal
20.30	Repeal
20.40	Repeal
20.50	Repeal
20.60	Repeal
20.70	Repeal
20.80	Repeal
20.90	Repeal
20.100	Repeal
20.110	Repeal
20.120	Repeal
20.130	Repeal
20.140	Repeal
20.150	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Benton Municipal Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

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NOTICE OF PROPOSED REPEALER

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

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Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas because: the Department could not anticipate the timing of the need for the repealer.

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

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NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 20
BENTON MUNICIPAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

20.5 Introduction
20.10 Short Title
20.20 Definitions
20.30 Surfaces and Height Limitations
20.40 Use Restrictions
20.50 Non-Conforming Uses
20.60 Permits
20.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
20.80 Variances
20.90 Notice of Construction or Alteration
20.100 Enforcement
20.110 Appeal and Judicial Review
20.120 Penalties
20.130 Conflicting Regulations
20.140 Severability
20.150 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Adopted at 2 Ill. Reg. 51, p. 107, effective December 23, 1978; codified at 7 Ill. Reg. 10997; repealed at 30 Ill. Reg. _____, effective _____.

Section 20.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Benton Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Benton Municipal Airport zoning map (Note: this zoning map can be viewed at the

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Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the City of Benton, a municipal corporation of the State of Illinois, as owner and operator of Benton Municipal Airport, pursuant to the authority conferred by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Benton Municipal Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Benton Municipal Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Benton Municipal Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Benton Municipal Airport be adopted as follows:

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Section 20.10 Short Title

These zoning regulations shall be known and may be cited as "Airport Hazard Zoning Regulations for Benton Municipal Airport".

Section 20.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Benton Municipal Airport located near Benton, in the North ½ of the Northwest ¼ and the North ½ and the Southwest ¼ of the Northeast ¼ of Section 13, Township 6 South, Range 2 East of the Third Principal Meridian, Franklin County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 447.0' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 38º 00' 30" N and Longitude 88º 56' 00" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section III hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an Federal Aviation Administration (FAA) Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of

aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 20.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an Federal Aviation Administration (FAA) Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 20.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-

precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Benton Municipal Airport prepared by Givenrod-Lipe, Inc., of Murphysboro, Illinois, and referred to hereinafter as the zoning map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 447.0' Above Mean Sea Level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150' above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200' beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway

centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

   A) 1,250' for that end of a utility runway with only visual approaches;

   B) 1,500' for that end of runway other than a utility runway with only visual approaches:

   C) 2,000' for that end of a utility runway with a non-precision instrument approach;

   D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

   E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

   F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

   A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

   B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

   C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally 40 each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90º) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 447.0' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90º) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' At Ground Level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Benton Municipal Airport and this surface increases in height in the proportion of 100' for each additional nautical mile of distance from the airport reference point up to a maximum of 500'.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50' above the surface of the land.

Section 20.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 20.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or

other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 20.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of Benton.

Section 20.60 Permits

a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75' of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200' from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75' of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision

instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75' of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 20.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 20.80 Variances

a) General – Any person wishing to erect or increase the height of any structure, or

permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a Variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 20.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 20.30 hereof with respect to Benton Municipal Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3200' in actual length.

B) 50 to 1 for a horizontal distance of 10,000' from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200' in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest

mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (1) or (2) of this paragraph.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Benton Municipal Airport:

1) Any antenna structure of 20' or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) of this Section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, One Langhorne Bond Drive, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (c)(2) of this Section above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgement of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) of this Section above within 30 days of receipt of such notice.

2) The acknowledgement will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 20.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 20.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Franklin County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, "Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.)

Section 20.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a petty offense, and such hazard shall be removed by proper legal proceedings and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Franklin County, Illinois, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 20.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 20.140 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 20.150 Effective Date

These zoning regulations shall be in full force and effect from and after concurrence by the Illinois Commerce Commission, adopted by the Department and ten (10) days after filing with the Secretary of State.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Cairo Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 25

3)

Section Numbers:	Proposed Action:
25.10	Repeal
25.20	Repeal
25.30	Repeal
25.40	Repeal
25.50	Repeal
25.60	Repeal
25.70	Repeal
25.80	Repeal
25.90	Repeal
25.100	Repeal
25.110	Repeal
25.120	Repeal
25.130	Repeal
25.140	Repeal
25.EXHIBIT A	Repeal

4) Statutory Authority: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1985, ch. 15½, par. 48.17).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Cairo Regional Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

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13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas because: the Department could not anticipate the timing of the need for the repealer.

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 25
CAIRO AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

25.10 Introduction
25.20 Definitions
25.30 Surfaces and Height Limitations
25.40 Use Restrictions
25.50 Non-Conforming Uses
25.60 Permits
25.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
25.80 Variances
25.90 Notice of Construction or Alteration
25.100 Enforcement
25.110 Appeal and Judicial Review
25.120 Penalties
25.130 Conflicting Regulations
25.140 Severability
25.EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1985, ch. 15½, par. 48.17).

SOURCE: Adopted at 11 Ill. Reg. 2858, effective January 21, 1987; repealed at 30 Ill. Reg. _____, effective _____.

Section 25.10 Introduction

a) Zoning provisions regulating and restricting the height of structures and trees, and otherwise regulating the use of property in the vicinity of the Cairo Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Cairo Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an

example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction of alteration.

b) These zoning regulations are adopted at the request of Alexander County Airport Authority, as owner and operator of Cairo Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1985, ch. 15½, pars. 48.1 et seq.). *It is hereby found that an airport hazard endangers the lives and property of users of* Cairo Airport *and of occupants of land* or property *in its vicinity and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of* Cairo Airport *and the public investment therein*.

1) *Accordingly, it is declared*:

A) *That the creation or establishment of an airport hazard is a public nuisance and an injury to the* region *served by* Cairo Airport;

B) *That it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and*

C) that the prevention of these hazards *should be accomplished to the extent legally possible, by the exercise of the police power, without compensation*.

2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and*/or *lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land* or interests in land. (Section 11 of the Act)

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Cairo Airport be adopted as follows.

Section 25.20 Definitions

As used in this Part, unless the context otherwise requires:

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"Airport" – The Cairo Airport located near Cairo, in the North ½ of Section 4; West ½ of the Southeast ¼ of Section 4; West ½ of the Northeast ¼ of Southeast ¼ of Section 4; approximately 6.6 acres of Northwest ¼ of Southeast ¼ of Section 4 all in Township 17 South, Range 1 West of the Third Principal Meridian, Alexander County, Illinois.

"Airport Elevation" – The established elevation of the highest point to the usable landing strip; the established airport elevation shall be 321 feet above mean sea level (AMSL).

"Airport Hazard" – *Any structure*, tree, *or use of land which obstructs the airspace required for*, or is otherwise hazardous to *the flight of aircraft in landing or taking-off at the airport*. (Section 3 of the Act)

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 37° 03' 52" N and Longitude 89° 13' 04" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Section 25.30 of this Part.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Flight Safety Coordinator" – An employee of the Department whose duties include, but are not limited to inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

"Height" – The overall height of the top of a structure including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

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"Landing Area" – The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Non-Conforming Use" – Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 25.60 of this Part.

"Person" – An *individual, firm*, partnership, *corporation, company, association, joint stock association, or body politic*, and includes a *trustee, receiver, assignee*, administrator, executor, guardian, *or other representative, and including this state* and the Division of Aeronautics.

"Political Subdivision" – *Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof,* situated in whole or in part within any of the surfaces established by Section 25.30 hereof.

"Precision Instrument Runway" – A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" – *The State of Illinois*.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Tree" – Any object of natural growth.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of this Part, in accordance with Section 25.80.

"Visibility Minimums" – The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" – A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

Section 25.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the

approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall included all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to included non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map. (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C) for Cairo Airport prepared by J. T. Blankinship and Associates, Murphysboro, Illinois. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150 feet above the established airport elevation of 321 feet AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the

runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250 feet for utility runways having only visual approaches;

B) 500 feet for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500 feet for visual runways having only visual approaches;

ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute miles;

iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility

minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250 feet for that end of a utility runway with only visual approaches;

B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;

C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;

D) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;

E) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000 feet for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;

B) 10,000 feet at a slope of 34 feet horizontally for each foot

vertically for all non-precision instrument runways other than utility; and

C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 321 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface - This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Cairo Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

Section 25.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

a) Electrical or Electronic Interference

1) In such a manner as to create electrical or electronic interference with

navigational signals or radio or radar communication between the airport and aircraft.

2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.

b) Flashing of Illuminated Structures

1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.

2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 25.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or

alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part and is diligently prosecuted.

b) Marking and Lighting

1) Notwithstanding the provisions of Section 25.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Alexander County Airport Authority.

2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 25.60 Permits

a) Future Uses – Except as specifically provided in subsections (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height

above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or tree of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 25.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

Whenever the Department following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure* or use or tree *has been abandoned or more than 80 per cent* demolished, *destroyed*, physically *deteriorated, or decayed*:

a) *No permit shall be granted* by the Department *that would allow such structure* or use or tree *to exceed the applicable height limit or otherwise deviate from* these *zoning regulations; and*

b) *Whether application is made for a permit, or not, the Department may* issue an order pursuant to Section 25.70(c), in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling *the owner of the non - conforming structure* or use or tree, *at his own expense, to lower, remove, reconstruct, or equip such* structure or use or tree *as may be necessary to conform to* these zoning *regulations. If the owner of the non-conforming structure* or use or tree *shall neglect or refuse to comply with such order* within ten (10) *days after*

notice thereof, the Department may proceed to have such structure or use or tree *so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the state, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the state by* suit in equity *for the enforcement thereof as in the case of other liens*. (Section 23 of the Act)

c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 25.80 Variances

a) General – *Any person* wishing to erect or increase the height of *any structure, or permit* any *growth, or use his property* not in accordance with these *zoning regulations, may apply to the Department for a variance from* these *zoning regulations. Such variances shall be allowed where* it is duly found that a *literal application or enforcement of* these *zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of* these *zoning regulations*. (Section 24 of the Act)

b) Marking and Lighting – Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.

c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 25.90 Notice of Construction or Alteration

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established herein by Section 25.30 hereof with respect to Cairo Airport:

1) Any construction or alteration of more than 200 feet in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subsection (1) or (2) of this Section.

4) Any construction or alteration that would exceed a standard of the Act or this Part.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Cairo Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.

b) Form and Time of Notice

1) Each person who is required to notify the Department under subsection (a) of this Section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter. For example an emergency could include breaks in sewer lines, gas mains or power lines.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) above within 30 days of receipt of such notice.

2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or

alteration:

A) Would under federal rules require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-IF, September 27, 1978, as provided in 14 CFR 77.11 (b)(3), January 1, 1983, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or

B) Would not exceed any standard of the Act or this Part; or

C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this Part; or

D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 25.100 Enforcement

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 25.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in Administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceedings before Board of Appeal shall govern such application to the Department. (Ill. Rev. Stat. 1985, ch. 15 ½, par. 48.29)

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Alexander County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled the Administrative Review Law (Ill. Rev. Stat. 1985, ch. 110, pars. 3-101 et seq.).

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 25.120 Penalties

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense*, and such hazard shall be removed by proper legal proceedings and *each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in* Circuit Court of Alexander County, Illinois, or *Circuit Court of any County in which the airport hazard* is wholly or partly *located, an action to prevent* and *restrain, correct or abate, any violation of these zoning regulations, or of any* regulation, *order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of* these zoning *regulations* as *adopted and orders and rulings made pursuant thereto*. (Section 34 of the Act)

Section 23.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 25.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 25. EXHIBIT A Proposed Construction Permit Request

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS
PROPOSED CONSTRUCTION PERMIT REQUEST

Name of Individual or Company
Making Request _____

Address _____
Street City Zip Phone

Nature and Description of Proposed Structure:		New Construction				
		Alteration				
	Nearest Town:					
	Location from Nearest Town					
	Direction			Distance		
	Nearest Airport:					
	From Nearest Point to a Runway					
	Distance			Direction		
	Latitude			Longitude		
	°	'	"	°	'	"

PROPOSED HEIGHTS AND ELEVATIONS				
Site Elevation (Mean Sea Level)				Feet
Highest Point of Structure Above Ground				Feet
Overall Height above Mean Sea Level				Feet
Estimated Construction Starting Date				
Estimated Construction Completion Date				
Type of Structure:	Permanent _____		Temporary _____	
Will Structure be Obstruction Lighted:	Yes _____		No _____	
Will Structure be Obstruction Marked:	Yes _____		No _____	

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Remarks:		
Date:	Title or Position:	Signature

Form DA 39

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Coles County Memorial Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 32

3)

Section Numbers:	Proposed Action:
32.5	Repeal
32.10	Repeal
32.20	Repeal
32.30	Repeal
32.40	Repeal
32.50	Repeal
32.60	Repeal
32.70	Repeal
32.80	Repeal
32.90	Repeal
32.100	Repeal
32.110	Repeal
32.120	Repeal
32.130	Repeal
32.140	Repeal
32.150	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Coles County Memorial Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

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Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas because the Department could not anticipate the timing of the need for the repealer.

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 32
COLES COUNTY MEMORIAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

32.5 Introduction
32.10 Short Title
32.20 Definitions
32.30 Surfaces and Height Limitations
32.40 Use Restrictions
32.50 Non-Conforming Uses
32.60 Permits
32.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
32.80 Variances
32.90 Notice of Construction or Alteration
32.100 Enforcement
32.110 Appeal and Judicial Review
32.120 Penalties
32.130 Conflicting Regulations
32.140 Severability
32.150 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Filed and effective March 30, 1974; codified at 7 Ill. Reg. 2739; repealed at 30 Ill. Reg. _____, effective _____.

Section 32.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Coles County Memorial Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Coles County Memorial Airport zoning map (Note: this zoning map can be viewed at the

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Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Coles County Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of Coles County Memorial Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Coles County Memorial Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Coles County Memorial Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Coles County Memorial Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Coles County Memorial Airport be adopted as follows:

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Section 32.10 Short Title

These zoning regulations shall be known and may be cited as "Coles County Memorial Airport Hazard Zoning Regulations".

Section 32.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Coles County Memorial Airport located near Mattoon, in the Southeast ¼ of Section 15; the East ½ of the Northeast ¼ of Section 22; the North ½ of the Northeast and Northwest Quarters of Section 23; the Northwest ¼ of Section 24; and the South ½ of Section 14; all in Township 12 North, Range 8 East of the Third Principal Meridian, Coles County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 721.00 feet above mean sea level.

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 88° 16' 50" N and Longitude 39° 28' 39.5" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77)

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Division" – The Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs or foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics of the Department of Transportation.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 32.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and so indicated by an Federal Aviation Administration (FAA) Approved Layout Plan.

"Runway" – The prepared surface of an airport landing strip.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 32.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedures and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Part 77.

Section 32.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, an order to carry out the provisions of these zoning regulations. Such

surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface, to include non-precision non-instrument approach, and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Coles County Memorial Airport consisting of two (2) sheets, prepared by William J. Murray & Associates and dated December 28, 1972, and referred to hereinafter as the zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 721 feet above mean sea level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two (2) adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

3) The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150' above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precisions instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200' beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches;

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90º) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 721.0 feet above mean sea level. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90º) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Coles County Memorial Airport and this surface increases in height in the proportion of 100' for each additional nautical mile of distance from the airport reference point up to a maximum of 500'.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50' above the surface of the land.

Section 32.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

DEPARTMENT OF TRANSPORTATION

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Section 32.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 32.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of Coles County Memorial Airport Authority.

Section 32.60 Permits

a) Future Uses – Except as specifically provided in paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75' of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200' from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-

precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75' of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 50 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 32.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use or growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 32.80 Variances

a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 32.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 32.30 hereof with respect to Coles County Memorial Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000 ft. from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 ft. in actual length.

B) 50 to 1 for a horizontal distance of 10,000 ft. from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where

overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (b)(2) of this paragraph.

4) When requested by the Division, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Division or these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Coles County Memorial Airport:

1) Any antenna structure of 20' or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

c) Form and Time of Notice

1) Each person who is required to notify the Division under paragraph (a) shall forward one (1) executed form set (in four copies) of the Division's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Division.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration,

the 30-day requirement in paragraph (c)(1) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Division Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Division will acknowledge in writing the receipt of such notice submitted under paragraph (a) above within 30 days of receipt of such notice.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Division, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

C) Would exceed a standard of the statute, rules and regulations of the Division, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 32.100 Enforcement

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 32.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Franklin County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.).

Section 32.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a petty offense, and such hazard shall be removed by proper legal proceedings and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Coles County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 32.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 32.140 Severability

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 32.150 Effective Date

a) Whereas, the immediate application of the provision of these zoning regulations are necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence of the Illinois Commerce Commission, and filing with the Secretary of State.

b) Adopted by the Department of Transportation, Division of Aeronautics this 13th day of December, 1973.

c) Concurred in by the Illinois Commerce Commission this 20th day of March, 1974.

d) Certified copy filed with the Secretary of State this 30th day of March, 1974.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Decatur Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 34

3)

Section Numbers:	Proposed Action:
34.5	Repeal
34.10	Repeal
34.20	Repeal
34.30	Repeal
34.40	Repeal
34.50	Repeal
34.60	Repeal
34.70	Repeal
34.80	Repeal
34.90	Repeal
34.100	Repeal
34.110	Repeal
34.120	Repeal
34.130	Repeal
34.140	Repeal
34.150	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Decatur Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

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Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas because: the Department could not anticipate the timing of the need for the repealer.

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 34
DECATUR AIRPORT HAZARD ZONING REGULATIONS (REPEALED)

Section

34.5 Introduction
34.10 Short Title
34.20 Definitions
34.30 Surfaces and Height Limitations
34.40 Use Restrictions
34.50 Non-Conforming Uses
34.60 Permits
34.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
34.80 Variances
34.90 Notice of Construction or Alteration
34.100 Enforcement
34.110 Appeal and Judicial Review
34.120 Penalties
34.130 Conflicting Regulations
34.140 Severability
34.150 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Emergency rule adopted July 19, 1977; codified at 6 Ill. Reg. 15263; amended at 30 Ill. Reg. _____, effective _____.

Section 34.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Decatur Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Decatur Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an

example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Decatur Part District, a municipal corporation of the State of Illinois, as owner and operator of Decatur Airport, pursuant to the authority conferred by an Act entitled, "The Airport Zoning Act" (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.) and supplant "Zoning Regulations for Decatur Airport" adopted by the Department of Aeronautics on December 30, 1971 which have been repealed in toto. It is hereby found that an airport hazard endangers the lives and property of users of Decatur Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Decatur Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Decatur Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Decatur Airport be adopted as follows:

Section 34.10 Short Title

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These zoning regulations shall be known and may be cited as "Decatur Airport Hazard Zoning Regulations".

Section 34.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Decatur Airport located near Decatur, in the Southwest ¼ and the West ½ of the Southeast ¼ of Section 15; and the South ½ of the Southeast ¼, the Northwest ¼ of the Southeast ¼, the Southwest ¼, and the Southwest ¼ of the Northwest ¼, and the Southeast ¼ of the Northwest ¼ of Section 16; and the Southeast ¼ of Section 20; and the Northwest ¼, the Southwest ¼ and the Northeast ¼ of Section 21; and the North ½ of the Northwest ¼ of Section 22, all in Township 16 North, Range 3 East of the Third Principal Meridian, Macon County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 680' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 39° 50' 02" N and Longitude 88° 51' 49" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the

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State of Illinois.

"Growth" - Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 34.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 34.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 34.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface,

conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Decatur Airport consisting of two (2) sheets prepared by William J. Murray and Associates, Springfield, Illinois, dated January 7, 1977, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.) and referred to hereinafter as the zoning map. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 680' AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150' above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200' beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that

width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 680' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' AGL or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Decatur Airport and this surface increases in height in the proportion of 100' for each additional nautical mile of distance from the airport reference point up to a maximum of 500'.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50' above the surface of the land.

Section 34.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 34.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these

zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 34.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Decatur Park District.

Section 34.60 Permits

a) Future Uses – Except as specifically provided in paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75' of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200' from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75' of vertical height above the ground, except when such growth or structure would extend above the height limit

prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75' of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 34.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 34.80 Variances

a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning

regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 34.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 34.30 hereof with respect to Decatur Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes: 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3200' in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a) or (b) of this section.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Decatur Airport:

1) Any antenna structure of 20' or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a)(1) above shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, North Walnut Street Road, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (c)(2) above does not apply and the

notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of each notice submitted under paragraph (c)(1) above.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 34.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the

Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 34.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Macon County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, par. 3-101 et seq.).

Section 34.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred dollars ($200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Macon County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 34.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 34.140 Severability

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 34.150 Effective Date

a) Whereas, the immediate application of the provisions of these zoning regulations are necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after their adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.

b) Adopted by the Division of Aeronautics on the 21st day of April, 1977.

c) Concurred in by the Illinois Commerce Commission on the 6th day of July,. 1977.

d) Certified copy filed with the Secretary of State's Office on the 19th day of July 1977.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: DeKalb Municipal Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 36

3)

Section Numbers:	Proposed Action:
36.5	Repeal
36.10	Repeal
36.20	Repeal
36.30	Repeal
36.40	Repeal
36.50	Repeal
36.60	Repeal
36.70	Repeal
36.80	Repeal
36.90	Repeal
36.100	Repeal
36.110	Repeal
36.120	Repeal
36.130	Repeal
36.140	Repeal
36.150	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the DeKalb Taylor Municipal Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas: because the Department could not anticipate the timing of the need for the repealer.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 36
DEKALB MUNICIPAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

36.5 Introduction
36.10 Short Title
36.20 Definitions
36.30 Surfaces and Height Limitations
36.40 Use Restrictions
36.50 Non-Conforming Uses
36.60 Permits
36.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
36.80 Variances
36.90 Notice of Construction or Alteration
36.100 Enforcement
36.110 Appeal and Judicial Review
36.120 Penalties
36.130 Conflicting Regulations
36.140 Severability
36.150 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.).

SOURCE: Adopted at 2 Ill. Reg. 48, p. 215, effective December 2, 1978; codified at 7 Ill. Reg. 1475; repealed at 30 Ill. Reg. _____, effective _____.

Section 36.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the DeKalb Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the DeKalb Municipal Airport zoning map (Note: this zoning map can be viewed at the

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Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits, A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the City of DeKalb, a municipal corporation of the State of Illinois, as owner and operator of DeKalb Municipal Airport, pursuant to the authority conferred by an Act entitled, "The Airport Zoning Act" (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of DeKalb Municipal Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of DeKalb Municipal Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by DeKalb Municipal Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards by prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, of the State of Illinois, that the zoning regulations for DeKalb Municipal Airport be adopted as follows:

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Section 36.10 Short Title

These zoning regulations shall be known and may be cited as "Airport Hazard Zoning Regulations for DeKalb Municipal Airport".

Section 36.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The DeKalb Municipal Airport located near DeKalb, in Parts of Section 24, Township 40 North, Range 4 East of the Third Principal Meridian, and Part of Section 19, Township 40 North, Range 5 East of the Third Principal Meridian, DeKalb County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 911' above mean sea level.

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 41° 55' 47" N and Longitude 88° 42' 55" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs or foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 36.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by a Federal Aviation Administration (FAA) Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of

aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 36.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 36.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include nonprecision instrument approach, precision instrument approach and visual approach,

transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for DeKalb Municipal Airport prepared by William J. Murray and Associates, Inc., of Springfield, Illinois, (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 620706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B, and C), and referred to hereinafter as the zoning map. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surface.

4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevation of 911.0' above mean sea level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150' above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precisions instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200' beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary

surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

   A) 1,250' for that end of a utility runway with only visual approaches;

   B) 1,500' for that end of runway other than a utility runway with only visual approaches:

   C) 2,000' for that end of a utility runway with a non-precision instrument approach;

   D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

   E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

   F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

   A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

   B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

   C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 911.0' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of DeKalb Municipal Airport and this surface increases in height in the proportion of 100' for each additional nautical mile of distance from the airport reference point up to a maximum of 500'.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50' above the surface of the land.

Section 36.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 36.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the

regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 36.50 (a)(1), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of DeKalb.

Section 36.60 Permits

a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in these regulations, no permit shall be required for any growth or structure less than 75' of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200' from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-percision instrument approach surfaces, no permit shall be required for any growth or structure less than 75' of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision

instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75' of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 36.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 36.80 Variances

a) General – Any person wishing to erect or increase the height of any structure, or

permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a Variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 36.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 36.30 hereof with respect to DeKalb Municipal Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3200' in actual length.

B) 50 to 1 for a horizontal distance of 10,000' from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200' in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest

mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (b)(2) of this paragraph.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to DeKalb Municipal Airport:

1) Any antenna structure of 20' or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, North Walnut Street Road, Springfield, Illinois 62705. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (c)(2) above within 30 days of receipt of said notice.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 36.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 36.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of DeKalb County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, "The Administrative Review Law" (Ill. Rev. Stat. 1981, ch. 110, par. 1-101 et seq.).

Section 36.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a petty offense, and such hazard shall be removed by proper legal proceedings and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of DeKalb County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 36.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or

ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 36.140 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 36.150 Effective Date

These zoning regulations shall be in full force and effect from and after concurrence by the Illinois Commerce Commission, adoption by the Department and ten (10) days after filing with the Secretary of State.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: DuPage Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 37

3)

Section Numbers:	Proposed Action:
37.10	Repeal
37.20	Repeal
37.30	Repeal
37.40	Repeal
37.50	Repeal
37.60	Repeal
37.70	Repeal
37.80	Repeal
37.90	Repeal
37.100	Repeal
37.110	Repeal
37.120	Repeal
37.130	Repeal
37.140	Repeal
37.EXHIBIT A	Repeal

4) Statutory Authority: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.17).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the DuPage Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

DEPARTMENT OF TRANSPORTATION

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A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas because: the Department could not anticipate the timing of the need for the repealer.

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37.EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.17).

SOURCE: Adopted at 15 Ill. Reg. 9047, effective June 10, 1991; repealed at 30 Ill. Reg. _____, effective _____.

Section 37.10 Introduction

a) This Part regulates and restricts the height of structures and trees, and otherwise regulates the use of property in the vicinity of the DuPage Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the DuPage Airport zoning map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an

example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) This Part is adopted at the request of the DuPage Airport Authority, as owner and operator of DuPage Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1989, ch. 15½, pars. 48.1 et seq.). *It is hereby found that an airport hazard endangers the lives and property of users of* Dupage Airport *and of occupants of land* or property *in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of* DuPage Airport *and the public investment therein.*

1) *Accordingly, it is declared:*

A) *that the creation or establishment of an airport hazard is a public nuisance and an injury to the* region *served by* DuPage Airport;

B) *that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented; and*

C) that the prevention of these hazards *should be accomplished to the extent legally possible, by the exercise of the police power, without compensation.*

2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and*/or *lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land* or interests in land. (Section 11 of the Act)

Section 37.20 Definitions

As used in this Part, unless the context otherwise requires:

"Airport" – The Dupage Airport located near West Chicago, situated in the West ½ of the Southwest ¼ of Section 29; the East 1/2 of the Southwest ¼ of Section 30; the Northwest ¼ of the Northwest ¼ of Section 32; and that part of the North ½ of Section 31; lying North of the Chicago and Northwestern Railroad; all in

Township 40 North, Range 9 East of the Third Principal Meridian, Dupage County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 757 feet above mean sea level (AMSL).

"Airport Hazard" – *Any structure, tree, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking-off at the airport.* (Section 3 of the Act)

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 41° 54' 52" N and Longitude 88° 14' 48" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Section 37.30.

"Circling Approach Area" – That obstacle clearance area which shall be considered for aircraft maneuvering to land on a runway which is not aligned with the final approach course of the approach procedure.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Departure Area" – That area which begins at the departure end of the runway and has a beginning width of 1000' (500' from centerline). The area splays 15° on each side of the extended runway centerline for a distance of 2 Nautical Miles (NM). Additionally it includes a second surface that extends radially from a point on the runway centerline located 2,000' from the start end of the runway and extends the distance necessary to provide a 40:1 obstacle identification surface to reach the minimum altitudes authorized for en route operations.

"Final Approach Segment" – That area of an approach where the aircraft makes

final alignment and descent for landing.

"Flight Safety Coordinator" – An employee of the Department whose duties include, but are not limited to inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

"Height" – The overall height of the top of a structure including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Initial Approach Segment" – That area of an instrument approach between a point where aircraft departs the enroute phase of flight and is maneuvering to enter an intermediate segment. Such approach segments may be made along an arc, radial, course, heading, radar vector or a combination of thereof.

"Intermediate Approach Segment" – That area of an approach between the initial and final approach segments where the aircraft adjusts configuration, speed and positioning along positive course guidance such as radial or course.

"Landing Area" – The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Minimum Instrument Flight Altitude" – An altitude established for instrument flight between radio fixes that provides obstacle clearance over the terrain and man-made objects and adequate for navigational performance and communications requirements.

"Non-Conforming Use" – Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned, or

indicated on an FAA planning document or military service, military airport planning document.

"Obstacle Clearance" – The vertical distance between the lowest authorized flight altitudes and a prescribed surface within a specified area.

"Permit" - A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 37.60 of this Part.

"Person" – An *individual, firm,* partnership, *corporation, company, association, joint stock association, or body politic,* and includes a *trustee, receiver, assignee,* administrator, executor, guardian, *or other representative, and including this state* and the Division of Aeronautics. (Section 7 of the Act)

"Political Subdivision" – *any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof,* situated in whole or in part within any of the surfaces established by Section 37.30. (Section 6 of the Act)

"Precision Instrument Runway" – A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" – *The State of Illinois.* (Section 8 of the Act)

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without

limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Terminal Obstacle Clearance Area" – That area near an airport that contains the initial, intermediate and final approach segments, circling and departure areas which are a part of an instrument approach procedure.

"Tree" – Any object of natural growth.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of this Part, in accordance with Section 37.80.

"Visibility Minimums" – The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" – A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

Section 37.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of the runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary

surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C) for DuPage Airport prepared by Crawford Murphy & Tilly, Inc., Aurora, Illinois. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150 feet above the established airport elevation of 654 feet Above Mean Sea Level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250 feet for utility runways having only visual approaches;

B) 500 feet for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500 feet for visual runways having only visual approaches;

ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute miles;

iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered or the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250 feet for that end of a utility runway with only visual approaches;

B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;

C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;

D) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;

E) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000 feet for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;

B) 10,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument

runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – The surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 654 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of DuPage Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

i) Excepted Height Limitations – Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

Section 37.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

a) Electrical or Electronic Interference

1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.

2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.

b) Flashing or Illuminated Structures

1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.

2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 37.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by this Part

shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any non-conforming use. Nothing contained in this Part shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part and is diligently prosecuted.

b) Marking and Lighting

1) Notwithstanding the provisions of subsection (a), the owner of any existing non-conforming structure is required to permit the installation, operation and maintenance of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of West Chicago.

2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 37.60 Permits

a) Future Uses – Except as specifically provided in subsections (1), (2), and (3), no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface created unless a permit shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this Part. If such determination is in the affirmative, the permit shall be granted.

1) In the area staying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional

surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when, because of terrain, land contour or topographic features such tree or structure, would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 37.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

Whenever the Department, following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure* or use or tree *has been abandoned or more than 80 per cent* demolished, *destroyed,* physically *deteriorated, or decayed:*

a) *No permit shall be granted* by the Department *that would allow such structure* or use or tree *to exceed the applicable height limit or otherwise deviate from* these *zoning regulations; and*

b) *Whether application is made for a permit, or not, the Department may* issue an order pursuant to subsection (c), in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling *the owner of the non-conforming structure* or use or tree, *at his own expense, to lower, remove, reconstruct, or equip such* structure or use or tree *as may be necessary to conform to* these zoning *regulations. If the owner of the non-conforming structure* or use or tree *shall neglect or refuse to comply with such order* within ten *days after*

notice thereof, the Department may proceed to have such structure or use or tree *so lowered, removed, reconstructed or equipped and shall have a lien on behalf of the state, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the state by* suit in equity *for the enforcement thereof as in the case of other liens.* (Section 23 of the Act)

c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 37.80 Variances

a) General – *Any person* wishing to erect or increase the height of *any structure, or permit* any *growth, or use his property* not in accordance with these *zoning regulations, may apply to the Department for a variance from* these *zoning regulations. Such variances shall be allowed where* it is found that *a literal application or enforcement of* these *zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of* these *zoning regulations.* (Section 24 of the Act)

b) Marking and Lighting – Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.

c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 37.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established by Section 37.30 with respect to Dupage Airport:

1) Any construction or alteration of more than 200 feet in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subsection (a)(1) or (a)(2).

4) Any construction or alteration that would exceed a standard of the Act or this Part.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to DuPage Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.

c) Form and Time of Notice

1) Each person who is required to notify the Department under subsection (a) shall forward one executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five days. For example, an emergency could include breaks in sewer lines, gas mains or power lines.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) within 30 days of receipt of such notice.

2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would under federal rules require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1, as provided in 14 CFR 77.11 (b)(3), January 1, 1990, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or

B) Would not exceed any standard of the Act or this Part; or

C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this Part; or

D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 37.100 Enforcement

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 37.110 Appeal and Judicial Review

a) *Appeal – Any person aggrieved by any decision of the Department made in administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceedings before Board of Appeal shall govern such application to the Department.* (Section 29 of the Act)

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department, may appeal to the Circuit Court of Dupage County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of The Administrative Review Law (Ill. Rev. Stat. 1989, ch. 110, pars. 3-101 et seq.).

Section 37.120 Penalties

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense*, and such hazard shall be removed by proper legal

proceedings and *each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the* Circuit Court of Dupage County, Illinois, or *circuit court of any county in which the airport hazard* is wholly or partly *located, an action to prevent* and *restrain, correct or abate, any violation of* these *zoning regulations, or of any* regulation, *order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of* these zoning *regulations* as *adopted and orders and rulings made pursuant thereto.* (Section 34 of the Act)

Section 37.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 37.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 37.EXHIBIT A Proposed Construction Permit Request

ILLINOIS DEPARTMENT OF TRANSPORTATION
Division of Aeronautics

Name of Individual or Company
Making Request _____

Address _____
Street City Zip Phone

Nature and Description of Proposed Structure:		New Construction				
		Alteration				
	Nearest Town:					
	Location from Nearest Town					
	Direction			Distance		
	Nearest Airport:					
	From Nearest Point to a Runway					
	Direction			Distance		
	Latitude			Longitude		
	°	'	"		'	"

Proposed Heights and Elevations		
Site Elevation (Mean Sea Level)		Feet
Highest Point of Structure Above Ground		Feet
Overall Height above Mean Sea Level		Feet
Estimated Construction Starting Date		
Estimated Construction Completion Date		
Type of Structure:	Permanent	Temporary
Will Structure be Obstruction Lighted:	Yes	No
Will Structure be Obstruction Marked:	Yes	No

Remarks:

Date:	Title or Position:	Signature

The Illinois Department of Transportation is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Section 1 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.1). Disclosure of this information is REQUIRED. Failure to provide any

information will result in denial of the construction permit. This form has been approved by the Forms Management Center.
DA-39 (Rev. 1-87) IL 494-0765

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Edgar County Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 38

3)

Section Numbers:	Proposed Action:
38.5	Repeal
38.10	Repeal
38.20	Repeal
38.30	Repeal
38.40	Repeal
38.50	Repeal
38.60	Repeal
38.70	Repeal
38.80	Repeal
38.90	Repeal
38.100	Repeal
38.110	Repeal
38.120	Repeal
38.130	Repeal
38.140	Repeal
38.150	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Edgar County Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas because: the Department could not anticipate the timing of the need for the repealer.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 38
EDGAR COUNTY AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

38.5 Introduction
38.10 Short Title
38.20 Definitions
38.30 Surfaces and Height Limitations
38.40 Use Restrictions
38.50 Non-Conforming Uses
38.60 Permits
38.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
38.80 Variances
38.90 Notice of Construction or Alteration
38.100 Enforcement
38.110 Appeal and Judicial Review
38.120 Penalties
38.130 Conflicting Regulations
38.140 Severability
38.150 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Filed and effective June 9, 1975; codified at 6 Ill. Reg. 15265; repealed at 30 Ill. Reg. _____, effective _____.

Section 38.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Edgar County Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Edgar County Airport zoning plans (Note: this zoning map can be viewed at the Department of

Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Edgar County Board of Supervisors, a municipal corporation of the State of Illinois, as owner and operator of Edgar County Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act, (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Edger County Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Edgar County Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Decatur Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Edgar County Municipal Airport be adopted as follows:

Section 38.10 Short Title

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

These zoning regulations shall be known and may be cited as "Edgar County Airport Hazard Zoning Regulations".

Section 38.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Edgar County Airport located near Paris, in the South ½ of the South ½ of the Northwest ¼ of Section 5, the South ½ of the South ½ of the Northeast ¼ of Section 6, plus 420' of the adjoining South ½ of the South ½ of the Northwest ¼ of Section 6, and a rectangular Section of the Northwest ¼ of the Southeast 14 of Section 6, 1105' from the East line of the Northwest ¼ of the Southeast ¼ of Section 6, Township 14 North, Range 11 West of the Second Principal Meridian, Edgar County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 655' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 39° 41' 57" N and Longitude 88° 40' 08" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 38.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 38.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 38.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-

precision instrument approach, and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Edgar County Airport consisting of two (2) sheets, prepared by William J. Murray and Associates, and dated September 10, 1974, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevation of 655.0' above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150' above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precisions instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway

centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

   A) 1,250' for that end of a utility runway with only visual approaches;

   B) 1,500' for that end of runway other than a utility runway with only visual approaches:

   C) 2,000' for that end of a utility runway with a non-precision instrument approach;

   D) 3,500' for that end of a non-precision instrument visibility minimums greater than three-fourths of a statute mile;

   E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

   F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

   A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

   B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

   C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of for feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 655.0' above mean sea level. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level (AGL), or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Edgar County Municipal Airport and this surface increases in height in the proportion of 100' for each additional nautical mile of distance from the airport reference point up to a maximum of 500'.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 38.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 38.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the

regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 38.50 (a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Edgar County Board of Supervisors.

Section 38.60 Permits

a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200' from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75' of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision

instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75' of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 38.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 38.80 Variances

a) General – Any person wishing to erect or increase the height of any structure, or

permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 38.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 38.30 hereof with respect to Edgar County Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3200' in actual length.

B) 50 to 1 for a horizontal distance of 10,000' from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200' in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest

mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (1) or (2) of this paragraph.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Edgar County Airport:

1) Any antenna structure of 20' or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means,

with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) of this section above.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 38.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered

and granted or denied by the Department.

Section 38.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Edgar County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law, (Ill. Rev. Stat. 1981, ch. 110, pars, 3-101 et. seq.).

Section 38.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars ($200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Edgar County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 38.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 38.140 Severability

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 38.150 Effective Date

a) Whereas, the immediate application of the provisions of these zoning regulations is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.

b) Adopted by the Division of Aeronautics on the 13th day of February, 1975.

c) Concurred in by the Illinois Commerce Commission on April 23, 1975.

d) Certified copy filed with the Secretary of State on June 9, 1975.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Ingersoll Municipal Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 50

3)

Section Numbers:	Proposed Action:
50.10	Repeal
50.20	Repeal
50.30	Repeal
50.40	Repeal
50.50	Repeal
50.60	Repeal
50.70	Repeal
50.80	Repeal
50.90	Repeal
50.100	Repeal
50.110	Repeal
50.120	Repeal
50.130	Repeal
50.140	Repeal
50.EXHIBIT A	Repeal

4) Statutory Authority: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1991, ch. 15 ½, par. 48.17).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Ingersoll Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

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

9) Does this proposed repealer contain incorporations by reference? No

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11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

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Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

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Ms. Christine Caronna-Beard, Rules Manager
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2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas because: the Department could not anticipate the timing of the need for the repealer.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 50
INGERSOLL MUNICIPAL AIRPORT HAZARD ZONING (REPEALED)

Section
50.10 Introduction
50.20 Definitions
50.30 Surfaces and Height Limitations
50.40 Use Restrictions
50.50 Non-Conforming Uses
50.60 Permits
50.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
50.80 Variances
50.90 Notice of Construction or Alteration
50.100 Enforcement
50.110 Appeal and Judicial Review
50.120 Penalties
50.130 Conflicting Regulations
50.140 Severability
50.EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1991, ch. 15½, par. 48.17).

SOURCE: Filed and effective August 21, 1972; codified at 6 Ill. Reg. 15273; Part repealed, new Part adopted at 16 Ill. Reg. 13096, effective August 10, 1992; amended at 30 Ill. Reg. _____, effective _____.

Section 50.10 Introduction

a) This Part regulates and restricts the height of structures and trees, and otherwise regulates the use of property in the vicinity of the Ingersoll Airport by creating appropriate surfaces and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Ingersoll Airport zoning map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415);

providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) This Part is adopted at the request of the Canton Park District, as owner and operator of Ingersoll Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1991, ch. 15½, pars. 48.1 et seq.). *It is hereby found that an airport hazard endangers the lives and property of users of* Ingersol Airport *and of occupants of land* or property *in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of* Ingersoll Airport *and the public investment therein*.

1) *Accordingly, it is declared:*

A) *that the creation or establishment of an airport hazard is a public nuisance and an injury to the* region *served by* Ingersoll Airport;

B) *that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented; and*

C) that the prevention of these hazards *should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation.*

2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and*/or *lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land* or interests in land. (Section 11 of the Act)

Section 50.20 Definitions

As used in this Part the following terms have the meanings ascribed unless the context otherwise requires:

"Airport" – The Ingersoll Airport located near Canton, situated in Section 29, Township 7 North, Range East of the Fourth Principal Meridian, Fulton County, Illinois; also known as Ingersoll Airport.

"Airport Elevation" – The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 684 feet above mean sea level (AMSL).

"Airport Hazard" – *Any structure, tree, or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking-off at the airport.* (Section 3 of the Act)

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 40° 34' 13.0" N and Longitude 90° 04' 27.0" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Section 50.30.

"Circling Approach Area" – That obstacle clearance area which shall be considered for aircraft maneuvering to land on a runaway which is not aligned with the final approach course of the approach procedure.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics, of the State of Illinois.

"Departure Area" – That area which begins at the departure end of the runway and has a beginning width of 1000' (500' from centerline). The area splays 15~ on each side of the extended runway centerline for a distance of 2 Nautical Miles (NM). Additionally, it includes a second surface that extends radially from a point on the runway centerline located 2,000' from the start end of the runway and extends the distance necessary to provide a 40:1 obstacle identification surface to reach the minimum altitudes authorized for en route operations.

"Final Approach Segment" – That area of an approach where the aircraft makes final alignment and descent for landing.

"Flight Safety Coordinator" – An employee of the Department whose duties

include, but are not limited to, inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

"Height" – The overall height of the top of a structure including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Initial Approach Segment" – That area of an instrument approach between a point where aircraft departs the en route phase of flight and is maneuvering to enter an intermediate segment. Such approach segments may be made along an arc, radial, course, heading, radar vector or a combination thereof.

"Intermediate Approach Segment" – That area of an approach between the initial and final approach segments where the aircraft adjusts configuration, speed and positioning along positive course guidance such as radial or course.

"Landing Area" – The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Minimum Instrument Flight Altitude" – An altitude established for instrument flight between radio fixes that provides obstacle clearance over the terrain and man-made objects, and is adequate for navigational performance and communications requirements.

"Non-Conforming Use" – Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military airport planning document.

"Obstacle Clearance" – The vertical distance between the lowest authorized flight

altitudes and a prescribed surface within a specified area.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 50.60 of this Part.

"Person" – An *individual, firm,* partnership, *corporation, company, association, joint stock association, or body politic,* and includes a *trustee, receiver, assignee,* administrator, executor, guardian, *or other representative, and including this State* and the Division of Aeronautics. (Section 7 of the Act)

"Political Subdivision" – *Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof*, situated in whole or in part within any of the surfaces established by Section 50.30. (Section 6 of the Act)

"Precision Instrument Runway" – A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" – *The State of Illinois.* (Section 8 of the Act)

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Terminal Obstacle Clearance Area" – That area near an airport that contains the initial, intermediate and final approach segments, circling and departure areas

which are a part of an instrument approach procedure.

"Tree" – Any object of natural growth.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of this Part, in accordance with Section 50.80.

"Visibility Minimums" – The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" – A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.

Section 50.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: This zoning map can be viewed at the Department of

Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415) for Ingersoll Airport prepared by Casler, Houser & Hutchison, Inc., Jacksonville, Ill. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces described in subsections (b) through (h) are hereby established, and height limitations are established in those subsections for each of the surfaces.

b) Horizontal Surface

1) A horizontal plane 150 feet above the established airport elevation of 684 feet Above Mean Sea Level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000

feet.

2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250 feet for utility runways having only visual approaches;

B) 500 feet for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500 feet for visual runways having only visual approaches;

ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

   A) 1,250 feet for that end of utility runway with only visual approaches;

   B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;

   C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;

   D) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;

   E) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

   F) 16,000 feet for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

   A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;

   B) 10,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and

   C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 684 feet AMSL. Transitional surfaces, for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Ingersoll Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

i) Excepted Height Limitations – Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

Section 50.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

a) Electrical or Electronic Interference

1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.

2) If a complaint of such interference is received by the Department, a Flight

Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.

b) Flashing or Illuminated Structures

1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.

2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking-off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to, the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 50.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any non-conforming use. Nothing contained in this Part shall require any change in the construction, alteration, or intended use of any structure, the construction or

alteration of which was begun prior to the effective date of this Part, and is diligently prosecuted.

b) Marking and Lighting

1) Notwithstanding the provisions of subsection (a) of this Section, the owner of any existing non-conforming structure is required to permit the installation, operation and maintenance of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport the presence of such airport hazards, all to be performed at the expense of the Canton Park District.

2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 50.60 Permits

a) Future Uses – Except as specifically provided in subsections (a)(1), (2), and (3) of this Section, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface created unless a permit shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this Part. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 50.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

a) Whenever the Department, following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure* or use *or tree has been abandoned or more than 80 per cent* demolished, *destroyed*, physically *deteriorated, or decayed*:

1) *No permit shall be granted* by the Department *that would allow such structure* or use *or tree to exceed the applicable height limit or otherwise deviate from* these *zoning regulations; and*

2) *Whether application is made for a permit, or not, the Department may* issue an order pursuant to subsection (b) of this Section, in cases where the remaining structure or use *or tree* constitutes a violation of this Part, compelling *the owner of the non-conforming structure* or use *or tree, at his own expense, to lower, remove, reconstruct, or equip such* structure or use *or tree as may be necessary to conform to* the zoning *regulations. If the owner of the non-conforming structure* or use *or tree shall neglect or refuse to comply with such order* within ten *days after notice thereof, the Department may proceed to have* such structure or use *or tree so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost*

and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity *for the enforcement thereof as in the case of other liens*. (Section 23 of the Act)

b) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport and whether or not the airport has precision instrument or instrument runways.

Section 50.80 Variances

a) General – *Any person* wishing to erect or increase the height of *any structure, or permit* any *growth, or use his property* not in accordance with these *zoning regulations, may apply to the Department for a variance from* these *zoning regulations. Such variances shall be allowed where* it is found that *a literal application or enforcement of* these *zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of* these *zoning regulations.* (Section 24 of the Act)

b) Marking and Lighting – Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.

c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 50.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established by

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 50.30 with respect to Ingersoll Airport:

1) Any construction or alteration of more than 200 feet in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which would exceed a standard of subsection (a)(1) or (a)(2) of this Section if adjusted upward: 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance; 15 feet for any other public roadway; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road; 23 feet for a railroad; and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it.

4) Any construction or alteration that would exceed a standard of the Act or this Part.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Ingersoll Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.

c) Form and Time of Notice

1) Each person who is required to notify the Department under subsection (a) of this Section shall forward one executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A of this Part) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) of this Section does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five days. For example, an emergency could include breaks in sewer lines, gas mains or power lines.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) of this Section within 30 days after receipt of such notice.

2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would under federal rules, require lighting or marking standards as

prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1, as provided in 14 CFR 77.11 (b)(3), January 1, 1990, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or

B) Would not exceed any standard of the Act or this Part; or

C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this Part; or

D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 50.100 Enforcement

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 50.110 Appeal and Judicial Review

a) *Appeal – Any person aggrieved by any decision of the Department made in administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceedings before board of appeal shall govern such application to the Department.* (Section 29 of the Act)

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Fulton County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of The Administrative Review Law (Ill. Rev. Stat. 1991, ch. 110, pars. 3-101 et seq.).

Section 50.120 Penalties

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense*, and such hazard shall be removed by proper legal proceedings and *each day a violation continues to exist shall constitute a separate offense. In*

addition, the Department may institute in the Circuit Court of Fulton County, Illinois, or *Circuit Court of any county in which the airport hazard* is wholly or partly *located, an action to prevent* and restrain, correct or abate, any violation of these zoning *regulations, or of any* regulation, *order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of* these zoning *regulations* as *adopted and orders and rulings made pursuant thereto.* (Section 34 of the Act)

Section 50.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 50.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 50.EXHIBIT A Proposed Construction Permit Request

ILLINOIS DEPARTMENT OF TRANSPORTATION
Division of Aeronautics

Name of Individual or Company
Making Request _____

Address _____
Street City Zip Phone

Nature and Description of Proposed Structure:		New Construction				
		Alteration				
	Nearest Town:					
	Location from Nearest Town					
	Direction			Distance		
	Nearest Airport:					
	From Nearest Point to a Runway					
	Direction			Distance		
	Latitude			Longitude		
	°	'	"		'	"

Proposed Heights and Elevations		
Site Elevation (Mean Sea Level)		Feet
Highest Point of Structure Above Ground		Feet
Overall Height above Mean Sea Level		Feet
Estimated Construction Starting Date		
Estimated Construction Completion Date		
Type of Structure:	Permanent	Temporary
Will Structure be Obstruction Lighted:	Yes	No
Will Structure be Obstruction Marked:	Yes	No

Remarks:

Date:	Title or Position:	Signature

The Illinois Department of Transportation is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Section 1 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.1). Disclosure of this information is REQUIRED. Failure to provide any

information will result in denial of the construction permit. This form has been approved by the Forms Management Center.
DA-39 (Rev. 1-87) IL 494-0765

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Jacksonville Municipal Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 52

3)

Section Numbers:	Proposed Action:
52.5	Repeal
52.10	Repeal
52.20	Repeal
52.30	Repeal
52.40	Repeal
52.50	Repeal
52.60	Repeal
52.70	Repeal
52.80	Repeal
52.90	Repeal
52.100	Repeal
52.110	Repeal
52.120	Repeal
52.130	Repeal
52.140	Repeal
52.150	Repeal

4) Statutory Authority: Authorized by and implementing the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Jacksonville Municipal Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

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Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas because: the Department could not anticipate the timing of the need for the repealer.

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

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NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 52
JACKSONVILLE MUNICIPAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

52.5 Introduction
52.10 Short Title
52.20 Definitions
52.30 Surfaces and Height Limitations
52.40 Use Restrictions
52.50 Non-Conforming Uses
52.60 Permits
52.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
52.80 Variances
52.90 Notice of Construction or Alteration
52.100 Enforcement
52.110 Appeal and Judicial Review
52.120 Penalties
52.130 Conflicting Regulations
52.140 Severability
52.150 Effective Date

AUTHORITY: Authorized by and implementing the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Emergency rule adopted September 3, 1978; codified at 6 Ill. Reg. 15566; repealed at 30 Ill. Reg. _____, effective _____.

Section 52.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Jacksonville Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Jacksonville Municipal Airport zoning map (Note: this zoning map can be viewed at the

DEPARTMENT OF TRANSPORTATION

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Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.) ; providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Jacksonville Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of the Jacksonville Municipal Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Jacksonville Municipal Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Jacksonville Municipal Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Jacksonville Municipal Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards by prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible, by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interest in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Jacksonville Municipal Airport be adopted as follows:

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Section 52.10 Short Title

These zoning regulations shall be known and may be cited as "Jacksonville Municipal Airport Hazard Zoning Regulations".

Section 52.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Jacksonville Municipal Airport located near Jacksonville in the West ½ of the Southeast ¼, the East ½ of the southwest ¼, the Southwest ¼ of the Northeast ¼, the South 60 feet of the Southeast ¼ of the Northeast ¼, the Southeast ¼ of the Northwest ¼, and parts of the Southeast, Northwest and Northeast ¼'s of the Northwest ¼, all in Section 5, Township 15 North, Range 10 West of the Third Principal Meridian, Morgan County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 623.00' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 39˚ 46' 29" N., Longitude 90˚ 14' 18" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the

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State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs or foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in this regulation and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 52.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is

planned and is so indicated by a Federal Aviation Administration (FAA) Approved Layout Plan.

"Runway" – The prepared surface of an airport landing strip.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 52.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedures and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 52.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such

surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Jacksonville Municipal Airport consisting of one (1) sheets, prepared by Casler, Houser and Hutchison, Inc., and dated December 5, 1973, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.) An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 623.00 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

3) The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths of a statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot

vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90~) angles to the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 623.00 feet above mean sea level. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90~) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Jacksonville Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height of up to 50 feet above the surface of the land.

Section 52.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

DEPARTMENT OF TRANSPORTATION

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Section 52.50 Non-Conforming Uses

a) Regulations Not Retroactive – These surface regulations prescribed by this zoning regulation shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations, or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 52.50 (a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Jacksonville Airport Authority.

Section 52.60 Permits

a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions for primary, transitional and approach surfaces as set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 50 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 52.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

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Section 52.80 Variances

a) General – Any person desiring to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would be substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 52.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 52.30 hereof with respect to Jacksonville Municipal Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a

height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this paragraph.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Jacksonville Municipal Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

c) Form and Time of Notice. Each person who is required to notify the Department under paragraph (a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois 62705. Copies of this form may be obtained from the Department.

1) Such notice must be submitted at least 30 days before the date of the proposed construction or alteration is to begin.

2) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration,

the thirty (30) day requirement in paragraph (c)(1) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39, submitted within five (5) days thereafter.

d) Acknowledgment of Notice

The Department will acknowledge in writing the receipt of each notice submitted under paragraph (c)(1) above. The acknowledgement will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

1) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

2) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

3) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

4) Would require lighting and/or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

5) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 52.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

Section 52.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Morgan County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, "The Administrative Review Law" (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.).

Section 52.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars ($200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Morgan County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order, or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 52.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 52.140 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or

circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 52.150 Effective Date

a) Whereas, the immediate application of the provisions of these zoning regulations is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.

b) Adopted by the Division of Aeronautics on the 8th day of July, 1974.

c) Concurred in by the Illinois Commerce Commission on the 21st day of August, 1974.

d) Certified copy filed with the Secretary of State's Office on the 3rd day of September, 1974.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Kewanee Municipal Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 54

3)

Section Numbers:	Proposed Action:
54.10	Repeal
54.20	Repeal
54.30	Repeal
54.40	Repeal
54.50	Repeal
54.60	Repeal
54.70	Repeal
54.80	Repeal
54.90	Repeal
54.100	Repeal
54.110	Repeal
54.120	Repeal
54.130	Repeal
54.140	Repeal
54.150	Repeal
54.160	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Kewanee Municipal Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

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NOTICE OF PROPOSED REPEALER

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

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Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas because: the Department could not anticipate the timing of the need for the repealer.

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 54
KEWANEE MUNICIPAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

54.10 Introduction
54.20 Short Title
54.30 Definitions
54.40 Surfaces and Height Limitations
54.50 Use Restrictions
54.60 Non-Conforming Uses
54.70 Permits
54.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
54.90 Variances
54.100 Notice of Construction or Alteration
54.110 Enforcement
54.120 Appeal and Judicial Review
54.130 Penalties
54.140 Conflicting Regulations
54.150 Severability
54.160 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Adopted at 5 Ill. Reg. 8060, effective July 29, 1981; codified at 6 Ill. Reg. 15568; repealed at 30 Ill. Reg. _____, effective _____.

Section 54.10 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Kewanee Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Kewanee Municipal Airport zoning map (Note: this zoning map can be viewed at the

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Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Kewanee Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of Kewanee Municipal Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Kewanee Municipal Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Kewanee Municipal Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Kewanee Municipal Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Kewanee Municipal Airport be adopted as follows:

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Section 54.20 Short Title

These zoning regulations shall be known and may be cited as "Airport Hazard Zoning Regulations for Kewanee Municipal Airport".

Section 54.30 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Kewanee Municipal Airport located near Kewanee, in the Southwest ¼ of Section 8, the Northwest ¼ and the Southwest ¼ of the Northeast ¼ of Section 17, the Northeast ¼ and the East ½ of the Northwest ¼ of Section 18, Township 14 North, Range 5 East of the Fourth Principal Meridian, Henry County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing strip; the established airport elevation shall be 858.0' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 41˚ 12' 20" N and Longitude 89˚ 57' 45" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation.

"Growth" – Any object of natural growth, including trees, shrubs or foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 54.40 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 1 to 100 means one foot vertically for each one hundred feet of horizontal distance.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 54.90.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedures and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 54.40 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-

precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Kewanee Municipal Airport prepared by Willett Hofmann and Associates, Inc., of Dixon, Illinois, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation. Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

3) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 858.0' above mean sea level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the

horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precisions instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary

surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

   A) 1,250' for that end of a utility runway with only visual approaches;

   B) 1,500' for that end of runway other than a utility runway with only visual approaches:

   C) 2,000' for that end of a utility runway with a non-precision instrument approach;

   D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

   E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

   F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

   A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

   B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

   C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90˚) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 858.0' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90˚) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level (AGL) and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Kewanee Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 54.50 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 54.60 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the

regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 54.60(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Kewanee Airport Authority.

Section 54.70 Permits

a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-

precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits prescribed by these regulations.

Section 54.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 54.90 Variances

a) Any person wishing to erect or increase the height of any structure, or permit any

growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 54.100 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 54.40 hereof with respect to Kewanee Municipal Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest

mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this paragraph.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Kewanee Municipal Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, One Langhorne Bond Drive, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the thirty (30) day requirement in paragraph (2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above within 30 days of receipt of such notice.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation, although an application for Variance pursuant to Section 235.109 of these regulations would be required; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation and an application for Variance pursuant to Section 54.90 of these regulations would be required; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and

lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 54.110 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 54.120 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Henry County, Illinois, or the Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, "The Administrative Review Law" (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.).

Section 54.130 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a petty offense, and such hazard shall be removed by proper legal proceedings and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Henry County, Illinois, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 54.140 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 54.150 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 54.160 Effective Date

a) These zoning regulations shall be in full force and effect from and after concurrence by the Illinois Commerce Commission, adoption by the Department and ten (10) days after filing with the Secretary of State.
b) Concurred in by Order of the Illinois Commerce Commission dated April 22, 1981.
c) Adopted by Order of the Division of Aeronautics dated July 24, 1981.
d) Filed with the Office of the Secretary of State and became effective on July 29, 1981.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Lewis University Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 57

3)

Section Numbers:	Proposed Action:
57.10	Repeal
57.20	Repeal
57.30	Repeal
57.40	Repeal
57.50	Repeal
57.60	Repeal
57.70	Repeal
57.80	Repeal
57.90	Repeal
57.100	Repeal
57.110	Repeal
57.120	Repeal
57.130	Repeal
57.140	Repeal
57.EXHIBIT A	Repeal

4) Statutory Authority: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.17).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Lewis University Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

7) Will this proposed rulemaking replace an emergency rule currently in effect? No

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
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Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas: because the Department could not anticipate the timing of the need for the repealer.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 57
LEWIS UNIVERSITY AIRPORT
HAZARD ZONING (REPEALED)

Section

57.10 Introduction
57.20 Definitions
57.30 Surfaces and Height Limitations
57.40 Use Restrictions
57.50 Non-Conforming Uses
57.60 Permits
57.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
57.80 Variances
57.90 Notice of Construction or Alteration
57.100 Enforcement
57.110 Appeal and Judicial Review
57.120 Penalties
57.130 Conflicting Regulations
57.140 Severability
57.EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.17).

SOURCE: Adopted at 15 Ill. Reg. 2817, effective February 5, 1991; repealed at 30 Ill. Reg. _____, effective _____.

Section 57.10 Introduction

a) This Part regulates and restricts the height of structures and trees, and otherwise regulates the use of property in the vicinity of the Lewis University Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Lewis University Airport zoning map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois

62706. For an example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) This Part is adopted at the request of The Joliet Regional Port District, as owner and operator of Lewis University Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1989, ch. 15½, pars. 48.1 et seq.). *It is hereby found that an airport hazard endangers the lives and property of users of* Lewis University Airport *and of occupants of land* or property *in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of* Lewis University Airport *and the public investment therein.*

1) *Accordingly, it is declared:*

A) *That the creation or establishment of an airport hazard is a public nuisance and an injury to the* region *served by* Lewis University Airport;

B) *That it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented; and*

C) that the prevention of these hazards *should be accomplished to the extent legally possible, by the exercise of the police power, without compensation.*

2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land* or interests in land. (Section 11 of the Act)

Section 57.20 Definitions

As used in this Part, unless the context otherwise requires:

"Airport" – The Lewis University Airport located near Lockport, in the West ½ of Section 15, the Northeast ¼, and the Southeast ¼ of the Northwest ¼ of Section 16, Township 36 North, Range 10 East of the Third Principal Meridian, Will

County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 672 feet above mean sea level (AMSL).

"Airport Hazard" – *Any structure, tree, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking-off at the airport.* (Section 3 of the Act)

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 41~ 36' 29" N and Longitude 88~ 05' 48" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Section 57.30.

"Circling Approach Area" – That obstacle clearance area which shall be considered for aircraft maneuvering to land on a runway which is not aligned with the final approach course of the approach procedure.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Departure Area" – That area which begins at the departure end of the runway and has a beginning width of 1000' (500' from centerline). The area splays 15° on each side of the extended runway centerline for a distance of 2 Nautical Miles (NM). Additionally, it includes a second surface that extends radially from a point on the runway centerline located 2,000' from the start end of the runway and extends the distance necessary to provide a 40:1 obstacle identification surface to reach the minimum altitudes authorized for en route operations.

"Final Approach Segment" – That area of an approach where the aircraft makes final alignment and descent for landing.

"Flight Safety Coordinator" – An employee of the Department whose duties include, but are not limited to inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

"Height" – The overall height of the top of a structure including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Initial Approach Segment" – That area of an instrument approach between a point where aircraft departs the enroute phase of flight and is maneuvering to enter an intermediate segment. Such approach segments may be made along an arc, radial, course, heading, radar vector or a combination of thereof.

"Intermediate Approach Segment" – That area of an approach between the initial and final approach segments where the aircraft adjusts configuration, speed and positioning along positive course guidance such as radial or course.

"Landing Area" – The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Minimum Instrument Flight Altitude" – An altitude established for instrument flight between radio fixes that provides obstacle clearance over the terrain and man-made objects and adequate for navigational performance and communications requirements.

"Non-Conforming Use" – Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport

planning document.

"Obstacle Clearance" – The vertical distance between the lowest authorized flight altitudes and a prescribed surface within a specified area.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 57.60 of this Part.

"Person" – An *individual, firm,* partnership, *corporation, company, association, joint stock association, or body politic,* and includes a *trustee, receiver, assignee,* administrator, executor, guardian, *or other representative, and including this state* and the Division of Aeronautics. (Section 7 of the Act)

"Political Subdivision" – *Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof,* situated in whole or in part within any of the surfaces established by Section 57.30. (Section 6 of the Act)

"Precision Instrument Runway" – A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" – *The State of Illinois.* (Section 8 of the Act)

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Terminal Obstacle Clearance Area" – That area near an airport that contains the initial, intermediate and final approach segments, circling and departure areas which are a part of an instrument approach procedure.

"Tree" – Any object of natural growth.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of this Part, in accordance with Section 57.80.

"Visibility Minimums" – The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" – A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

Section 57.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach,

precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C) for Lewis University Airport prepared by Lester B. Knight & Associates, Inc., Chicago, Ill. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150 feet above the established airport elevation of 672 feet Above Mean Sea Level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250 feet for utility runways having only visual approaches;

B) 500 feet for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500 feet for visual runways having only visual approaches;

ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute miles;

iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250 feet for that end of a utility runway with only visual approaches;

B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;

C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;

D) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;

E) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000 feet for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;

B) 10,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument

runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right 90 degree angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 672 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right 90 degree angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Lewis University Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

i) Excepted Height Limitations – Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

Section 57.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

a) Electrical or Electronic Interference

1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.

2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.

b) Flashing or Illuminated Structures

1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.

2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

a) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 57.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by this Part

shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any non-conforming use. Nothing contained in this Part shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part and is diligently prosecuted.

b) Marking and Lighting

1) Notwithstanding the provisions of subsection (a), the owner of any existing non-conforming structure is required to permit the installation, operation and maintenance of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Joliet Regional Port District.

2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 57.60 Permits

a) Future Uses – Except as specifically provided in subsections (1), (2), and (3), no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface created unless a permit shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this Part. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a

horizontal distance of 4,200 feet from each end of the runway, except when, because of terrain, land contour or topographic features such tree or structure, would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 57.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

Whenever the Department following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure* or use or tree *has been abandoned or more than 80 per cent* demolished, *destroyed*, physically *deteriorated, or decayed*:

a) *No permit shall be granted* by the Department *that would allow such structure* or use or tree *to exceed the applicable height limit or otherwise deviate from* these *zoning regulations; and*

b) *Whether application is made for a permit, or not, the Department may* issue an order pursuant to subsection (c), in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling *the owner of the non - conforming structure* or use or tree, *at his own expense, to lower, remove, reconstruct, or equip such* structure or use or tree *as may be necessary to conform to* these zoning *regulations. If the owner of the non-conforming structure* or use or tree *shall neglect or refuse to comply with such order* within ten *days after*

notice thereof, the Department may proceed to have such structure or use or tree *so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the state by* suit in equity *for the enforcement thereof as in the case of other liens.* (Section 23 of the Act)

c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 57.80 Variances

a) General – *Any person* wishing to erect or increase the height of *any structure, or permit* any *growth, or use his property* not in accordance with these *zoning regulations, may apply to the Department for a variance from* these *zoning regulations. Such variances shall be allowed where* it is found that *a literal application or enforcement of* these *zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of* these *zoning regulations.* (Section 24 of the Act)

b) Marking and Lighting – Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.

c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length the width of existing runways, and plans for future expansion of the airport.

Section 57.90 Notice of Construction or Alteration

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established by Section 57.30 with respect to Lewis University Airport:

1) Any construction or alteration of more than 200 feet in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subsection (a)(1) or (a)(2).

4) Any construction or alteration that would exceed a standard of the Act or this Part.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Lewis University Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.

c) Form and Time of Notice

1) Each person who is required to notify the Department under subsection (a) shall forward one executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five days. For example, an emergency could include breaks in sewer lines, gas mains or power lines.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) within 30 days of receipt of such notice.

2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would under federal rules require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1, as provided in 14 CFR 77.11 (b)(3), January 1, 1990, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or

B) Would not exceed any standard of the Act or this Part; or

C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this Part; or

D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 57.100 Enforcement

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 57.110 Appeal and Judicial Review

a) *Appeal – any person aggrieved by any decision of the Department made in administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceedings before Board of Appeal shall govern such application to the Department.* (Section 29 of the Act)

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Will County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled The Administrative Review Law (Ill. Rev. Stat. 1989, ch. 110, par. 3-101 et seq.).

Section 57.120 Penalties

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense,* and such hazard shall be removed by proper legal

proceedings and *each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the* Circuit Court of Will County, Illinois, or *circuit court of any county in which the airport hazard* is wholly or partly *located, an action to prevent* and *restrain, correct or abate, any violation of* these *zoning regulations, or of any* regulation, *order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of* these zoning *regulations* as *adopted and orders and rulings made pursuant thereto.* (Section 34 of the Act)

Section 57.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 57.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 57.EXHIBIT A Proposed Construction Permit Request

ILLINOIS DEPARTMENT OF TRANSPORTATION
Division of Aeronautics

Name of Individual or Company
Making Request _____

Address _____
Street City Zip Phone

Nature and Description of Proposed Structure:						
		New Construction				
		Alteration				
	Nearest Town:					
	Location from Nearest Town					
	Direction			Distance		
	Nearest Airport:					
	From Nearest Point to a Runway					
	Direction			Distance		
	Latitude			Longitude		
	°	'	"		'	"

Proposed Heights And Elevations			
Site Elevation (Mean Sea Level)			Feet
Highest Point of Structure Above Ground			Feet
Overall Height above Mean Sea Level			Feet
Estimated Construction Starting Date			
Estimated Construction Completion Date			
Type of Structure:	Permanent	Temporary	
Will Structure be Obstruction Lighted:	Yes	No	
Will Structure be Obstruction Marked:	Yes	No	

Remarks:

Date:	Title or Position:	Signature

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The Illinois Department of Transportation is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Section 1 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.1). Disclosure of this information is REQUIRED. Failure to provide any information will result in denial of the construction permit. This form has been approved by the Forms Management Center.
DA-39 (Rev. 1-87) IL 494-0765

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NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Williamson County Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 94

3)

Section Numbers:	Proposed Action:
94.10	Repeal
94.20	Repeal
94.30	Repeal
94.40	Repeal
94.50	Repeal
94.60	Repeal
94.70	Repeal
94.80	Repeal
94.90	Repeal
94.100	Repeal
94.110	Repeal
94.120	Repeal
94.130	Repeal
94.140	Repeal
94.150	Repeal
94.160	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Williamson County Regional Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

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Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas because: the Department could not anticipate the timing of the need for the repealer.

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

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NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 94
WILLIAMSON COUNTY AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

94.10 Introduction
94.20 Short Title
94.30 Definitions
94.40 Surfaces and Height Limitations
94.50 Use Restrictions
94.60 Non-Conforming Uses
94.70 Permits
94.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
94.90 Variances
94.100 Notice of Construction or Alteration
94.110 Enforcement
94.120 Appeal and Judicial Review
94.130 Penalties
94.140 Conflicting Regulations
94.150 Severability
94.160 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Adopted at 3 Ill. Reg. 42, p. 291, effective October 13, 1979; codified at 6 Ill. Reg. 15578; repealed at 30 Ill. Reg. _____, effective _____.

Section 94.10 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Williamson County Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Williamson County Airport zoning map (Note: this zoning map can be viewed at the

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Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Williamson County Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of Williamson County Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Williamson County Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Williamson County Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Williamson County Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expand public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Williamson County Airport be adopted as follows:

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Section 94.20 Short Title

These zoning regulations shall be known and may be cited as "Airport Hazard Zoning Regulations for Williamson County Airport".

Section 94.30 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" − The Williamson County Airport located near Marion, in parts of Sections 4, 5, 8 and 9, Township 9 South, Range 2 East of the Third Principal Meridian, Williamson County, Illinois.

"Airport Elevation" − The established elevation of the highest point on the useable landing area; the established airport elevation shall be 471.0' above mean sea level (AMSL).

"Airport Hazard" − Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" − The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 37º 45' 08" and Longitude 89º 00' 44".

"Alteration" − Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" − These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" − The erection or alteration of any structure either of a permanent or temporary character.

"Department" − The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" − Any object of natural growth, including trees, shrubs and foliage.

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"Height" − The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" − The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" − Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" − A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on a Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" − A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" − An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" − Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 94.40 hereof.

"Precision Instrument Runway" − A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" − An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" − A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" − The State of Illinois.

"Structure" − Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" − A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" − A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 94.90.

"Visual Runway" − A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 94.40 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non- precision instrument approach, precision instrument approach and visual approach, transitional

surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Williamson County Airport prepared by Clarida Engineering Co., of Marion, Illinois, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 471.0' AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the

horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precisions instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface − A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary

surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface − These surfaces extend outward and upward at right (90~)

angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 471.0' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90~) angles to the runway centerline.

g) Circling Approach Surface − This is a surface 200' above ground level (AGL) and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Williamson County Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations − Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 94.50 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 94.60 Non-Conforming Uses

a) Regulations Not Retroactive − Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise

interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting − Notwithstanding the provisions of Section 94.60(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Williamson County Airport Authority.

Section 94.70 Permits

a) Future Uses − Except as specifically provided in paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 94.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 94.90 Variances

a) General − Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning

regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting − Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 94.100 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice − The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 94.40 hereof with respect to Williamson County Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater,

for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a) or (b) of this paragraph.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice − No person is required to notify the Department for any of the following construction or alterations with respect to Williamson County Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the

proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (c)(1) above.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation, although an application for variance pursuant to Section 94.90 of these regulations would be required; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation and an application for variance pursuant to Section 94.90 of these regulation would be required; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 94.110 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

Section 94.120 Appeal and Judicial Review

a) Appeal − Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review − Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Williamson County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, par. 3-101 et seq.).

Section 94.130 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars ($200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Williamson County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 94.140 Conflicting Regulations

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 94.150 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 94.160 Effective Date

a) These zoning regulations shall be in full force and effect from and after concurrence by the Illinois Commerce Commission, adoption by the Department and ten (10) days after filing with the Secretary of State.

b) Concurred in by Order of the Illinois Commerce Commission dated September 19, 1979.

c) Adopted by Order of the Division of Aeronautics dated September 26, 1979.

d) Filed with the Office of the Secretary of State on October 3, 1979 and became effective October 13, 1979.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Illinois Valley Regional Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 95

3)

Section Numbers:	Proposed Action:
95.10	Repeal
95.20	Repeal
95.30	Repeal
95.40	Repeal
95.50	Repeal
95.60	Repeal
95.70	Repeal
95.80	Repeal
95.90	Repeal
95.100	Repeal
95.110	Repeal
95.120	Repeal
95.130	Repeal
95.140	Repeal
95.EXHIBIT A	Repeal

4) Statutory Authority: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1985, ch. 15½, par. 48.17).

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Illinois Valley Regional Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules, which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16, which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

(217) 524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

(217) 782-3215

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

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13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This proposed repealer was not included on either of the 2 most recent regulatory agendas because: the Department could not anticipate the timing of the need for the repealer.

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

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NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 95
ILLINOIS VALLEY REGIONAL AIRPORT
HAZARD ZONING (REPEALED)

Section

95.10 Introduction
95.20 Definitions
95.30 Surfaces and Height Limitations
95.40 Use Restrictions
95.50 Non-Conforming Uses
95.60 Permits
95.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
95.80 Variances
95.90 Notice of Construction or Alteration
95.100 Enforcement
95.110 Appeal and Judicial Review
95.120 Penalties
95.130 Conflicting Regulations
95.140 Severability
95.EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1985, ch. 15½, par. 48.17).

SOURCE: Adopted at 12 Ill. Reg. 8722, effective May 10, 1988; repealed at 30 Ill. Reg. _____, effective _____.

Section 95.10 Introduction

a) These are zoning provisions regulating and restricting the height of structures and trees, and otherwise regulating the use of property in the vicinity of the Illinois Valley Regional Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Illinois Valley Regional Airport zoning map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond

Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the City of Peru, as owner and operator of Illinois Valley Regional Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1985, ch. 15½, pars. 48.1 et seq.). *It is hereby found that an airport hazard endangers the lives and property of users of Illinois Valley Regional Airport and of occupants of land* or property *in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of* Illinois Valley Regional Airport *and the public investment therein*.

1) *Accordingly, it is declared*:

A) *that the creation or establishment of an airport hazard is a public nuisance and an injury to the* region *served by* Illinois Valley Regional Airport;

B) *that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and*

C) that the prevention of these hazards *should be accomplished to the extent legally possible, by the exercise of the police power, without compensation*.

2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and*/or *lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land* or interests in land. (Section 11 of the Act)

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Illinois Valley Regional Airport be adopted.

Section 95.20 Definitions

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As used in this Part, unless the context otherwise requires:

"Airport" − The Illinois Valley Regional Airport located near Peru, in part of Sections 6 and 7, Township 33 North, Range 1 East of the Third Principal Meridian, LaSalle County, Illinois.

"Airport Elevation" − The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 653.5 feet above mean sea level (AMSL).

"Airport Hazard" − *Any structure*, tree, *or use of land which obstructs the airspace required for*, or is otherwise hazardous to *the flight of aircraft in landing or taking-off at the airport*. (Section 3 of the Act)

"Airport Reference Point" − The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 41~ 20' 58" N and Longitude 89~ 09' 14" W.

"Alteration" − Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" − These surfaces are defined in Section 95.30 of this Part.

"Construction" − The erection or alteration of any structure either of a permanent or temporary character.

"Department" − The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Flight Safety Coordinator" − An employee of the Department whose duties include, but are not limited to inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

"Height" − The overall height of the top of a structure including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of

which shall be mean sea level elevation unless otherwise specified.

"Landing Area" − The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Non-Conforming Use" − Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" − A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Permit" − A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 95.60 of this Part.

"Person" − An *individual, firm*, partnership, *corporation, company, association, joint stock association, or body politic*, and includes a *trustee, receiver, assignee*, administrator, executor, guardian, *or other representative, and including this state* and the Division of Aeronautics.

"Political Subdivision" − *Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof*, situated in whole or in part within any of the surfaces established by Section 95.30 hereof.

"Precision Instrument Runway" − A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

"Runway" − An area of the airport designated for the landing or taking off of

aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" − A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" − *The State of Illinois*.

"Structure" − Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Tree" − Any object of natural growth.

"Utility Runway" − A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" − A grant of relief by the Department from the requirements of this Part, in accordance with Section 95.80.

"Visibility Minimums" − The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" − A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

Section 95.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is

based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C) for Illinois Valley Regional Airport prepared by William J. Murray & Associates, Inc., Springfield, Illinois. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150 feet above the established airport elevation of 653.5 feet Above Mean Sea Level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway.

When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250 feet for utility runways having only visual approaches;

B) 500 feet for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500 feet for visual runways having only visual approaches;

ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute

miles;

iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface − A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250 feet for that end of utility runway with only visual approaches;

B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;

C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;

D) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;

E) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000 feet for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;

B) 10,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface − These surfaces extend outward and upward at right (90~) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 653.5 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90~) angles to the runway centerline.

g) Circling Approach Surface − This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Illinois Valley Regional Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations − Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

Section 95.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within

any surface established by this Part as follows:

a) Electrical or Electronic Interference

1) In such manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.

2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.

b) Flashing or Illuminated Structures

1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.

2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 95.50 Non-Conforming Uses

a) Regulations Not Retroactive − Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part and is diligently prosecuted.

b) Marking and Lighting

1) Notwithstanding the provisions of Section 95.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of Peru.

2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 95.60 Permits

a) Future Uses − Except as specifically provided in subsections (1), (2), and (3) below, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 95.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

Whenever the Department following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure* or use or tree *has been abandoned or more than 80 per cent* demolished, *destroyed*, physically *deteriorated, or decayed*:

a) *No permit shall be granted* by the Department *that would allow such structure* or use or tree *to exceed the applicable height limit or otherwise deviate from* these *zoning regulations; and*

b) *Whether application is made for a permit, or not, the Department may* issue an order pursuant to Section 95.70(c), in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling *the owner of the non -*

conforming structure or use or tree, *at his own expense, to lower, remove, reconstruct, or equip such* structure or use or tree *as may be necessary to conform to* these zoning *regulations*. *If the owner of the non-conforming structure* or use or tree *shall neglect or refuse to comply with such order* within ten (10) *days after notice thereof, the Department may proceed to have* such structure or use or tree *so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the state, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the state by* suit in equity *for the enforcement thereof as in the case of other liens*. (Section 23 of the Act)

c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 95.80 Variances

a) General − *Any person* wishing to erect or increase the height of *any structure, or permit* any *growth, or use his property* not in accordance with these *zoning regulations, may apply to the Department for a variance from* these *zoning regulations. Such variances shall be allowed where* it is duly found that *a literal application or enforcement of* these *zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of* these *zoning regulations.* (Section 24 of the Act)

b) Marking and Lighting − Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.

c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing

runways, and plans for future expansion of the airport.

Section 95.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice − The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established herein by Section 95.30 with respect to Illinois Valley Regional Airport:

1) Any construction or alteration of more than 200 feet in height above ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subsection (a)(1) or (a)(2) of this Section.

4) Any construction or alteration that would exceed a standard of the Act or this Part.

b) Construction or Alteration Not Requiring Notice − No person is required to notify the Department for any of the following construction or alterations with respect to Illinois Valley Regional Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.

c) Form and Time of Notice

1) Each person who is required to notify the Department under subsection (a) of this Section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter. For example an emergency could include breaks in sewer lines, gas mains or power lines.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) above within 30 days of receipt of such

notice.

2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would under federal rules require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1F, September 27, 1978, as provided in 14 CFR 77.11 (b)(3), January 1, 1983, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or

B) Would not exceed any standard of the Act or this Part; or

C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this Part; or

D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 95.100 Enforcement

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 95.110 Appeal and Judicial Review

a) Appeal − Any person aggrieved by any decision of the Department made in Administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceedings before Board of Appeal shall govern such application to the Department. (Ill. Rev. Stat. 1985, ch. 15½, par. 48.29)

b) Judicial Review − Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of LaSalle County,

Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled The Administrative Review Law (Ill. Rev. Stat. 1985, ch. 110, pars. 3-101 et seq.).

Section 95.120 Penalties

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense*, and such hazard shall be removed by proper legal proceedings and *each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the* Circuit Court of LaSalle County, Illinois, or *Circuit Court of any county in which the airport hazard* is wholly or partly *located, an action to prevent* and *restrain, correct or abate, any violation of* these *zoning regulations, or of any* regulation, *order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of* these zoning *regulations* as *adopted and orders and rulings made pursuant thereto*. (Section 34 of the Act)

Section 95.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 95.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 95.EXHIBIT A Proposed Construction Permit Request

ILLINOIS DEPARTMENT OF TRANSPORTATION
Division of Aeronautics

Name of Individual or Company
Making Request _____

Address _____
Street City Zip Phone

Nature and Description of Proposed Structure:		New Construction				
		Alteration				
	Nearest Town:					
	Location from Nearest Town					
	Direction			Distance		
	Nearest Airport:					
	From Nearest Point to a Runway					
	Direction			Distance		
	Latitude			Longitude		
	°	'	"		'	"

Proposed Heights And Elevations			
Site Elevation (Mean Sea Level)			Feet
Highest Point of Structure Above Ground			Feet
Overall Height above Mean Sea Level			Feet
Estimated Construction Starting Date			
Estimated Construction Completion Date			
Type of Structure:	Permanent	Temporary	
Will Structure be Obstruction Lighted:	Yes	No	
Will Structure be Obstruction Marked:	Yes	No	

Remarks:

Date:	Title or Position:	Signature

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

The Illinois Department of Transportation is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Section 1 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.1). Disclosure of this information is REQUIRED. Failure to provide any information will result in denial of the construction permit. This form has been approved by the Forms Management Center.
DA-39 (Rev. 1-87) IL 494-0765

DEPARTMENT OF VETERANS AFFAIRS

NOTICE OF PROPOSED RULES

1) Heading of the Part: Veterans' Scratch-Off Lottery Grants

2) Code Citation: 95 Ill. Adm. Code 123

3)

Section Numbers:	Proposed Action:
123.5	New
123.10	New
123.15	New
123.20	New
123.25	New
123.30	New
123.35	New
123.40	New
123.45	New
123.50	New

4) Statutory Authority: Implementing and authorized by Section 21.6 of the Illinois Lottery Law [20 ILCS 1605/21.6].

5) A Complete Description of the Subjects and Issues Involved: The intent of this Part is to provide the power to make grants for specific causes relating to veterans pursuant to Public Act 94-585 from the proceeds of a veterans-based lottery scratch off ticket. The grants shall be used solely for the following purposes:
(1) Veterans' post traumatic stress disorder
(2) Veterans' homelessness
(3) Defray the health insurance costs for veterans
(4) Veterans' disability insurance through Veteran Service Organizations or Veterans Assistance Commissions
(5) Veterans' long term care

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

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

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

9) Does this rulemaking contain incorporations by reference? No

DEPARTMENT OF VETERANS AFFAIRS

NOTICE OF PROPOSED RULES

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

11) Statement of Statewide Policy Objectives: Raise money for veterans' programs that will have a direct effect on the health, both physical and mental, of veterans of all ages and backgrounds, but with a particular focus on those veterans who have little means to secure such services.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Texts of the proposed amendments are posted on Secretary of State's web site, www.sos.state.il.us/departments/index/home as part of the *Illinois Register*. Interested parties may submit comments in writing within 45 days after publication to:

Rochelle Crump
Assistant Director
Illinois Department of Veterans Affairs
James R. Thompson Center
5th Floor, Ste. 570
Chicago, IL 60601

217-785-2775
312-814-2460
s-rxc@dva.state.il.us

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: There should be no additional burdens on small municipalities, rather, grants for additional assistance for Veteran Assistance Commissions will bring employment opportunities in some municipalities. Assistance will generally be provided to not for profit organizations that assist veterans in homeless shelters, mental health services, or in placing veterans in various programs through veteran service organizations.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the need for this rulemaking was not anticipated at the time the agendas were prepared.

DEPARTMENT OF VETERANS AFFAIRS

NOTICE OF PROPOSED RULES

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

DEPARTMENT OF VETERANS AFFAIRS

NOTICE OF PROPOSED RULES

TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER I: DEPARTMENT OF VETERANS' AFFAIRS

PART 123: VETERANS' SCRATCH-OFF LOTTERY GRANTS

Section
123.5 General Purpose
123.10 Definitions
123.15 Grant Authorization Committee
123.20 Eligibility for Post Traumatic Stress Disorder Treatment Grants
123.25 Eligibility for Veterans' Homelessness Grants
123.30 Eligibility for Grants for Health Insurance Cost Defrayal for Veterans
123.35 Eligibility for Veteran Disability Benefit Provider Grants
123.40 Eligibility for Long Term Care for Veterans Grants
123.45 Application, Payment and Denial
123.50 Minimum/Maximum Grant Amounts and Reporting

AUTHORITY: Implementing and authorized by Section 21.6 of the Illinois Lottery Law [20 ILCS 1605/21.6].

SOURCE: Adopted at 30 Ill. Reg. _____, effective _____.

Section 123.5 General Purpose

a) The intent of this Part is to provide grants for specific causes relating to veterans from the proceeds of *a special scratch-off game for the benefit of Illinois veterans*, as directed by Section 21.6 of the Illinois Lottery Law [20 ILCS 1605/21.6].

b) The grants shall be used solely for the following purposes:

1) Programs designed to treat *veterans' post traumatic stress disorder* (PTSD);

2) Programs designed to treat *veterans' homelessness*;

3) Programs designed to defray *health insurance costs for veterans*;

4) *Veterans' disability benefits, including but not limited to disability benefits provided by Veteran Service Organizations or Veterans Assistance Commissions or centers;* or

5) Programs designed to provide *veterans' long term care*.

Section 123.10 Definitions

Terms defined in the Act have the same meanings when used in this Part. The following words and terms when used in this Part shall have the following meanings unless the context clearly indicates otherwise. For the purposes of this Part, the following definitions shall apply:

"Act" means the Illinois Lottery Law [20 ILCS 1605].

"Department" means the Illinois Department of Veterans' Affairs.

"Law" means the Illinois Lottery Law [20 ILCS 1605].

"Veterans' long-term care facility" means a facility licensed by the State or certified under federal law as a long-term care facility, a supportive living facility, an assisted living establishment, or a shared housing establishment or registered as a board and care home that specifically assists veterans.

"Veteran Service Organization" or "VSO" means an organization that is federally chartered and/or recognized or approved by the Secretary of the U.S. Department of Veterans Affairs (VA) for purposes of preparation, presentation and prosecution of claims under laws administered by the VA.

"Veterans' Assistance Center" means a place in which a Veterans' Assistance Commission works with veterans and their families.

"Veterans' Assistance Commission" means a county governmental agency that is operated by and for veterans to provide interim and/or emergency financial assistance paid exclusively to honorably discharged military veterans and their families.

"Veterans' homelessness facility" means a facility that provides living arrangements for veterans.

"Veterans' post traumatic stress disorder" or "PTSD" means an anxiety disorder that develops after exposure to a terrifying event or ordeal related to time served in the military in which grave physical harm occurred or was threatened.

DEPARTMENT OF VETERANS AFFAIRS

NOTICE OF PROPOSED RULES

Section 123.15 Grant Authorization Committee

a) A Grant Authorization Committee shall be formed to determine who will receive grants and in what amount. The Committee shall meet on a quarterly basis, at a minimum, and shall approve grants by unanimous decision.

b) The Committee shall be made up of the following participants:

1) Director of the Department of Veterans' Affairs or his or her designee;

2) Lieutenant Governor or his or her designee; and

3) Director of the Department of Healthcare and Family Services or his or her designee.

c) The Committee may make use of the public records of any State agency, including, but not limited to, the Department of Public Health and the Department of Human Services when making determinations relating to State facilities and resources.

Section 123.20 Eligibility for Post Traumatic Stress Disorder Treatment Grants

a) Preference for grants shall be given to programs that exclusively serve Illinois veterans.

b) Preference for grants shall be given to programs that serve veterans throughout the State, rather than one region of the State.

c) Preference for grants shall be given to programs that leverage additional funding.

d) To be eligible for a grant under this Section, an applicant must meet the following criteria:

1) Be an established program or can show proof that the grant will be used to start a new veterans' PTSD treatment program in a manner prescribed by the Department; or

2) Provide proof of diagnosis of the disorder in a manner prescribed by the Department that includes at least one of the following: diagnosis, family counseling or treatment.

DEPARTMENT OF VETERANS AFFAIRS

NOTICE OF PROPOSED RULES

Section 123.25 Eligibility for Veterans' Homelessness Grants

a) Preferences for grants shall be given to programs that exclusively serve Illinois veterans.

b) To be eligible for a grant under this Section, an established program or living facility must meet the following criteria:

1) Applicant must show that the program or facility has the appropriate licensure as required by a local ordinance or Illinois or federal law.

2) Applicant shall illustrate, in a detailed budget, how the potential grant money will be spent.

3) Applicant shall provide the following information regarding the program or facility, if applicable:

A) length of time the program or facility has been serving veterans;

B) a close approximation of the number of homeless veterans served by the facility or program annually, except, if the facility or program has existed for less than one year, the number of homeless veterans served up to the date of the submission of the grant application shall be provided; and

C) any lawsuits, citations or fines filed or issued involving the treatment of residents or program participants.

c) To be eligible for a grant under this Section, an applicant seeking a grant to assist in starting a new living facility or program for homeless veterans must provide the following information in a manner prescribed by the Department:

1) A detailed plan and description of the services to be offered to homeless veterans as well as any other social services offered to veterans or non-veterans.

2) A detailed budget showing the following:

A) how the grant money will be spent;

B) percent of total budget to be spent on the administration of the living facility or program; and

C) percent of total budget spent on services going to homeless veterans.

Section 123.30 Eligibility for Grants for Health Insurance Cost Defrayal for Veterans

Grants are available for any entity establishing a new or pilot program with the purpose of providing health insurance coverage to Illinois veterans who do not have health insurance.

Section 123.35 Eligibility for Veteran Disability Benefit Provider Grants

a) Pursuant to Section 21.6 of the Law, Veterans Service Organizations and Veterans' Assistance Commissions or Centers shall be eligible to receive grants.

b) Applicants, other than those falling under subsection (a) of this Section, shall be eligible for a grant if they meet all or any of the following criteria:

1) Assist veterans with applications necessary to receive disability benefits.

2) Conduct outreach to veterans to ensure that they are applying for available disability benefits.

3) Assist veterans who have difficulties or questions after disability benefits have been awarded.

c) Preference shall be given to any entity exclusively assisting Illinois veterans.

Section 123.40 Eligibility for Long Term Care for Veterans Grants

a) Preferences for grants shall be given to long term care facilities that exclusively serve Illinois veterans, whether they are operated by a governmental entity, private provider or public-private partnership.

b) Applicants must show proof of required long term care facility licensure.

c) Grants may be awarded for start-up costs for new long term care facilities serving veterans.

DEPARTMENT OF VETERANS AFFAIRS

NOTICE OF PROPOSED RULES

Section 123.45 Application, Payment and Denial

a) Applications

1) Only grants authorized by the Grant Authorization Committee under Section 123.15 will be awarded.

2) Applications will be made available by the Department and can be requested at:

Illinois Department of Veterans' Affairs
833 S. Spring Street
P.O. Box 19432
Springfield IL 62794-9432
217/782-6641

or

Illinois Department of Veterans' Affairs
100 W. Randolph Street
Suite 5-570
Chicago IL 60601-3219
312/814-2460

Forms are also available on the Department's website at www.state.il.us/agency/DVA.

b) Payments will be made to grant recipients in the order they were awarded unless the Grant Authorization Committee determines that exigent circumstances should cause a grant to be paid out of order.

c) Denials of applications shall be made in writing within 30 days after the decision to deny the application.

d) Only grants authorized by the Grant Authorization Committee will be awarded.

Section 123.50 Minimum/Maximum Grant Amounts and Reporting

a) The minimum amount of any grant is $500.

b) The maximum amount of any grant shall be 40% of gross monthly receipts of each payment made into the Veterans Assistance Fund pursuant to Section 21.6(b) of the Law. The 40% cap is intended to be a rolling cap dependent on monthly receipts.

c) There shall be no grant maximum for grant recipients who are conducting a program that encompasses at least three of the categories outlined in Section 123.5.

d) Grant recipients shall provide a semiannual report to the Department of Veterans' Affairs on the status of funded projects or programs and on the expenditure of grant funds.

e) The Department shall make an annual report summarizing the following to the Governor, Lt. Governor and General Assembly:

1) Name, location and description of grant recipients;

2) Accounting of expenditures of funds appropriated to the Department for the purposes of this Part;

3) Status of programs and facilities receiving grant awards during the year covered by the report; and

4) Accounting of expenditure for each grant authorized by the Department.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: State (of Illinois) Employees' Deferred Compensation Plan

2) Code Citation: 80 Ill. Adm. Code 2700

3)

Section Numbers:	Adopted Action:
2700.110	Amendment
2700.120	Repealed
2700.200	Amendment
2700.320	Amendment
2700.400	Amendment
2700.410	Amendment
2700.415	New Section
2700.420	Amendment
2700.430	Amendment
2700.435	New Section
2700.440	Amendment
2700.450	Amendment
2700.610	Amendment
2700.620	Amendment
2700.630	Amendment
2700.640	Amendment
2700.660	Amendment
2700.680	New Section
2700.690	New Section
2700.700	Amendment
2700.710	Amendment
2700.720	Repealed
2700.730	Amendment
2700.735	Amendment
2700.740	Amendment
2700.745	New Section
2700.750	Amendment
2700.760	Amendment
2700.800	Amendment
2700.850	New Section
2700.860	New Section
2700.870	New Section
2700.920	Amendment

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

4) Statutory Authority: Implementing section 457 of the Internal Revenue Code (26 USC 457, et seq., as now or hereafter amended) and implementing and authorized by the Illinois Pension Code [40 ILCS 5/22A-111.11 and Art. 24]

5) Effective Date of Amendments: April 21, 2006

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) Date Notice of Proposal was Published in the Illinois Register: December 9, 2005; 29 Ill. Reg. 19737

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: All nonsubstantive technical changes recommended by JCAR were made. Federal Regulation citations were updated to reflect 2005 citations. The definition of "Custodian" was added to Section 2700.200.

12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace any emergency amendments currently in effect? Yes

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

15) Summary and Purpose of Amendments: Generally, the rulemaking outlines the eligibility and participation requirements for the State of Illinois Deferred Compensation Plan (Plan). Specifically, the amendments clarify the tax requirements for the Plan; remove a number of existing sections and replace them with new language provided by the IRS that streamlines the Plan process; remove reliance upon the Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (which was designed only as a temporary measure) and incorporate any remaining provisions from the Act into the body of the rule; add new sections to clarify the time frames for enrollment, the allowable beneficiaries and the permissible "catch-up" deferments for employees nearing retirement; make it simpler for participants to transfer funds between two or more qualifying plans; and allow for an increase in the amount of funds available for deferment

and expand the methods for distribution for both participants and beneficiaries. Additional modifications have been made based upon terminology changes by the IRS, as well as for consistency of terminology within the rules.

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

Janice Bonneville
Illinois Department of Central Management Services
201 East Madison Street
Springfield IL 62794

(217) 524-1679

17) Does this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE H: DEFERRED COMPENSATION
CHAPTER I: ILLINOIS STATE BOARD OF INVESTMENT

PART 2700
STATE (OF ILLINOIS) EMPLOYEES' DEFERRED COMPENSATION PLAN

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section
2700.100 Establishment of Plan
2700.110 Purpose of Plan
2700.120 Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (Repealed)

SUBPART B: DEFINITIONS

Section
2700.200 Definitions

SUBPART C: ADMINISTRATION

Section
2700.300 Responsibilities of the Department
2700.310 Responsibilities of the Board
2700.320 Deferred Compensation Hardship Committee
2700.330 Applicable Law

SUBPART D: PARTICIPATION IN THE PLAN

Section
2700.400 Eligibility
2700.410 Enrollment
2700.415 Designation of Beneficiary
2700.420 Minimum Deferment
2700.430 Basic Annual Limitation~~Maximum Deferment~~
2700.435 Age 50 Catch-up Annual Deferral Contribution
2700.440 Special Section 457 Catch-up Limitation
2700.450 Revocation of Deferral

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

Section
2700.500 Normal Retirement Age
2700.510 Alternative Normal Retirement Age

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section
2700.600 Deferred Compensation Accounts
2700.610 Allocation of Investment Earnings or Losses
2700.620 Investment Fund Valuation
2700.630 Administrative Costs
2700.640 Method of Making Investment Requests
2700.650 Participant Statements
2700.660 Custodial Account
2700.670 Investment Funds
2700.680 Rollovers to the Plan
2700.690 Plan-to-Plan Transfers to the Plan

SUBPART G: DISTRIBUTIONS

Section
2700.700 Distribution Events
2700.710 Beneficiary Election of Method of Distribution
2700.720 Election of Delayed Distribution Date (Repealed)
2700.730 Election of Method of Distribution
2700.735 Distribution for Certain Balances of $5,000 or Less~~of Small Accounts~~
2700.740 Unforeseeable Emergency
2700.745 Plan-to-Plan Transfers from the Plan
2700.750 Permissive Service Credit Transfers~~Designation of Beneficiary~~
2700.760 Leave of Absence

SUBPART H: MISCELLANEOUS

Section
2700.800 Nonassignability
2700.810 Payments to Minors and Incompetents
2700.820 Missing Persons
2700.830 Severability

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

2700.840 Days and Dates
2700.850 Domestic Relations Orders
2700.860 IRS Levy
2700.870 Mistaken Contributions

SUBPART I: AMENDMENT OR TERMINATION OF PLAN

Section
2700.900 Amendment of Plan
2700.910 Termination of Plan
2700.920 Merger with Prior Plans

2700.APPENDIX A Administrative Rules (Repealed)
2700.EXHIBIT A Administrative Rule I (Repealed)
2700.EXHIBIT B Administrative Rule II (Repealed)
2700.EXHIBIT C Administrative Rule III (Repealed)
2700.EXHIBIT D Administrative Rule IV (Repealed)
2700.EXHIBIT E Administrative Rule V (Repealed)
2700.EXHIBIT F Administrative Rule VI (Repealed)

AUTHORITY: Implementing section 457 of the Internal Revenue Code (26 USCA 457, et seq., as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 161, effective March 6, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 13, p. 7, effective March 19, 1979; amended at 3 Ill. Reg. 36, p. 436, effective August 29, 1979; amended at 4 Ill. Reg. 1, p. 45, effective December 26, 1979; amended at 6 Ill. Reg. 9655, effective July 23, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 10845, effective August 31, 1983; emergency amendments at 13 Ill. Reg. 629, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9308, effective May 31, 1989; emergency amendment at 17 Ill. Reg. 19976, effective November 2, 1993, for a maximum of 150 days; emergency expired April 2, 1994; amended at 18 Ill. Reg. 7224, effective May 2, 1994; amended at 21 Ill. Reg. 10050, effective July 15, 1997; emergency amendment at 23 Ill. Reg. 566, effective January 1, 1999, for a maximum of 150 days; amendment at 23 Ill. Reg. 6039, effective May 5, 1999; emergency amendment at 26 Ill. Reg. 478, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7442, effective May 6, 2002; emergency amendment at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8408, effective April 21, 2006.

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 2700.110 Purpose of Plan

a) The purpose of this Plan is to allow Employees to designate a portion of their Compensation to be withheld each month by the State of Illinois and invested at the discretion of and in a manner approved by the Board until Severance of Employment~~Termination of Service~~, Unforeseeable Emergency or death of the Employee.

b) Participation in this Plan shall not be construed to establish or create an employment contract between the Employee and the State of Illinois.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.120 Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (Repealed)

~~This Section reflects certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). This Section is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued under EGTRRA. Except as otherwise provided, this Section shall be effective January 1, 2002. This Section shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Section.~~

~~a) Pertaining to direct rollovers and distributions made under EGTRRA after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in section 403(b) and eligible plans under sections 401(a) and 401(k) of the Internal Revenue Code (Code), and an eligible plan under section 457(b) of that Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the Code. For purposes of direct rollovers, any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of that distribution paid directly to an eligible retirement plan.~~

~~b) The Plan will accept direct rollovers of distributions made after December 31,~~

~~2001 from the types of plans specified in this subsection (b). Rollovers from other plans shall become effective January 1, 2002 and thereafter. The Plan will accept a direct rollover of an eligible rollover distribution from:~~

~~1) A qualified plan described in section 401(a) or 403(a) of the Code, excluding after-tax employee contributions.~~

~~2) An eligible plan under section 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.~~

~~c) The Department does not elect to exclude rollover contributions in determining the value of the participant's non-forfeitable account balance for purposes of the Plan's involuntary cash-out rules.~~

~~d) All employees who are eligible to make elective deferrals under this Plan and who have attained age 50 before the close of the Plan year shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of, section 414(v) of the Code. The catch-up contributions shall not be taken into account for purposes of the provisions of the Plan implementing the required limitations of sections 402(g) and 415 of the Code. The Plan shall not be treated as failing to satisfy the provisions of the Plan implementing the requirements of section 401(k)(3), (k)(11), (k)(12), 410(b), or 416 of the Code, as applicable, by reason of the making of such catch-up contributions. Catch-up contributions shall apply to contributions after December 31, 2001.~~

~~e) A participant who receives a distribution of elective deferrals after December 31, 2001 on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans of the State for 6 months after receipt of the distribution. A participant who receives a distribution of elective deferrals in calendar year 2001 on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans of the State for 6 months after receipt of the distribution or until January 1, 2002 if later.~~

~~f) Regardless of when the severance from employment occurred, distribution upon severance from employment shall apply for distributions after December 31, 2001.~~

~~g) Except to the extent permitted by section 631 of EGTRRA and section 414(v) of~~

~~the Code that allows for catch-up contributions, the annual addition that may be contributed or allocated to a participant's account under the Plan for any limitation year shall not exceed the lessers of:~~

~~1) $40,000, as adjusted for increases in the cost-of-living under section 415(d) of the Code, or~~

~~2) 100 percent of the participant's compensation, within the meaning of section 415(c)(3) of the Code, for the limitation year. The 100 percent limit referred to here shall not apply to any contribution for medical benefits after separation from service (within the meaning of section 401(h) or section 419A(f)(2) of the Code) that is otherwise treated as an annual addition.~~

~~h) The coordinated deferral limit under sections 403(b) and 457 of the Code will not apply to any contributions made after December 31, 2001.~~

(Source: Repealed at 30 Ill. Reg. 8408, effective April 21, 2006)

SUBPART B: DEFINITIONS

Section 2700.200 Definitions

a) Whenever used in the Plan, the following terms shall have the meanings set forth below unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized:

"Account Balance" means the bookkeeping account maintained with respect to each Participant that reflects the value of the Deferred Compensation credited to the Participant, including Annual Deferrals, the earnings or loss of the Investment Fund (net of Investment Fund expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in section 414(p)(8) of the Internal Revenue Code of 1954).
~~"Accounting Date" means the date on which an Investment Fund is valued and~~

~~earnings and/or losses are allocated to Participants' Deferred Compensation Accounts. There shall be an Accounting Date at least once a month and, if practical in the discretion of the Board, more frequent Accounting Dates to reflect, as closely as possible, the earnings and/or losses of any particular Deferred Compensation Account from the time Compensation is deferred and invested in various Investment Funds until it is eventually distributed according to the Plan.~~

"Alternate Retirement System" means this Plan, which is described in section~~Section~~ 457 of the Internal Revenue Code, when used for purposes of section~~Section~~ 3121(b)(7)(F) of the Code to exclude contractual employees from mandatory Social Security coverage.

"Annual Deferral" means the amount of Compensation deferred in any year.

"Applicable Dollar Amount" means the amount of Compensation allowed to be deferred in any calendar year as established under section 457(e)(15) of the Code.

"Beneficiary" means the person, persons or legal entity entitled to receive any undistributed Deferred Compensation that~~which~~ becomes payable in the event of the Participant's death, as designated by the Participant, or provided for in accordance with ~~Section 2700.750 of~~ the Plan.

"Board" means the Illinois State Board of Investment.

"Code" means the Internal Revenue Code of 1954 (26 USC~~U.S.C.A.~~ 1 et seq.), as amended from time to time, or any successor statute.

"Compensation" means all cash compensation for services to the State, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includable in the Employee's gross income for the calendar year but for a compensation reduction election under section 125, 132(f), 401(k), 403(b) or 457(b) of the Code.~~any remuneration payable to an Employee for employment or contractual services rendered to the Employer which is reportable as taxable income for the purposes of the Code.~~

"Custodial Account" means the fund created under and subject to the Custodial Agreement.

"Custodial Agreement" means the written agreement made by and between the State and the Custodian under which the Custodial Account is maintained.

"Custodian" means a bank, as described in section 408(n) of the Internal Revenue Code, or a person who meets the non-bank trustee requirements in accordance with the regulations under section 408(a)(2) of the Code relating to the use of non-bank trustees.

"Deferred Compensation" means that portion of the Participant's Compensation that~~which~~ the Participant defers under this Plan.

"Deferred Compensation Account" means an account established under this Plan that is the basis for any distribution payable to the Participant under Section 2700.730 of this Part.

"Delayed Distribution Date" means the date a Participant elects to make a decision regarding distribution of the Participant's account. ~~It can be no later than defined in Section 401(a)(9)(C) of the Code (26 U.S.C.A. 401(a)(9)(C) (1986), as amended by P.L. 99-514, effective January 1, 1989) and explained in Section 2700.720 of this Part.~~

"Department" means the Department of Central Management Services of the State of Illinois.

"Employee" means *any person, including a person elected, appointed or under contract, receiving compensation from the State for personal services rendered, including salaried persons* [40 ILCS 5/24-102], except that any person under contract with the Employer shall be eligible only to the extent the Internal Revenue Service or the Illinois Department of Revenue shall permit or approve.

"Employer" means the State of Illinois, including all officers, boards, commissions and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch, all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government that~~which~~ are created by or pursuant to statute other than units of local government and their officers, school districts and boards of election commissioners; all administrative units and corporate outgrowths of the above as may be created by executive order of the Governor.

"Hardship Committee" means a committee that is responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution as provided under Section 2700.740 of this Part.

"Includable Compensation" means the Employee's actual wages in box 1 of Form W-2 for a year for services to the State, as defined in section 457(e)(5) of the Code.~~amount of an Employee's Compensation for a taxable year that is includable in the Employee's gross income for the taxable year for federal income tax purposes; such term does not include any amount excludable from gross income under this Plan or any other plan described in Section 457(a) of the Internal Revenue Code, any amount excludable from gross income under Section 403(b) of the Internal Revenue Code, or any other amount excludable from gross income for federal income tax purposes. Includable Compensation shall be determined without regard to any community property laws.~~

"Investment Fund" means any and all funds established by the Board for the investment of Deferred Compensation.

"Minor" means a Beneficiary who is under age 18 at the time a benefit under this Plan becomes payable to him or her, unless Illinois law defines another age.

"Normal Retirement Age" means age 70½ unless the Participant has elected an alternative Normal Retirement Age by written instrument delivered to the Department within 30 days after~~of~~ the Participant's Severance of Employment ~~Termination of Service~~ as provided in Section 2700.510 of this Part. A Participant's Normal Retirement Age determines:

the latest time when benefits may commence under this Plan (unless the Participant continues employment after Normal Retirement Age);~~,~~ and

the period during which a Participant may utilize the three-year Catch-up provision of Section 2700.440 of this Part~~in this Plan~~.

"Participant" means any Employee who has enrolled in this Plan as provided in Section 2700.410 of this Part and has not had a complete distribution of his or her Deferred Compensation Account.

"Pay Period" means a regular accounting period established by the State of Illinois for measuring and paying Compensation earned by Employees. A Pay Period may be monthly, semi-monthly or bi-weekly.

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"Plan" means the State (of Illinois) Employees' Deferred Compensation Plan, as set forth in this Part~~these rules~~, and as it may be amended from time to time.

"Plan Year" shall be the tax year as established by the Comptroller for payroll purposes.

"Prior Plan I" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on September 10, 1976.

"Prior Plan II" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on May 18, 1979.

"Prior Plan III" means the State Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700) adopted at 7 Ill. Reg. 10845, effective August 31, 1983.

~~"State" means State of Illinois.~~

"Severance from Employment"~~Termination of Service"~~ means the permanent severance of the Participant's employment relationship with the Employer by means of:

retirement;

discharge;

resignation, provided seniority or continuous service is interrupted;

layoff, unless there is a designated date for return to paid status;

expiration or non-renewal of contract, appointment or term of office;

nonreelection; or

~~such~~ other form of permanent severance as may be provided by appropriate law, contract or rules and regulations.

For the purposes of this definition, neither a break in State service for a period of less than 30 days nor transfers among various branches of State Government shall be considered a Severance from Employment~~Termination of Service~~.

An independent contractor is considered to sever~~terminate~~ service with the Employer upon the expiration of all contracts under which services are performed for the Employer, if the expiration constitutes a good faith and complete termination of the contractual relationship.

"State" means State of Illinois.

"Unforeseeable Emergency" means severe financial hardship to the Participant resulting from an ~~a sudden and~~ unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant.

"Valuation Date" means the date on which an Investment Fund is valued and earnings and/or losses are allocated to Participants' Deferred Compensation Accounts. There shall be a Valuation Date at least once a month and, if practical at the discretion of the Board, more frequent Valuation Dates to reflect, as closely as possible, the earnings and/or losses of any particular Deferred Compensation Account from the time Compensation is deferred and invested in various Investment Funds until it is eventually distributed according to the Plan. It may also include each business day/the last day of the calendar month/the last day of the calendar quarter/each December 31.

b) Except when otherwise indicated by context, any masculine terminology ~~herein~~ shall also include the feminine and neuter and vice-versa, and the definition of any terms ~~herein~~ in the singular may also include the plural.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

SUBPART C: ADMINISTRATION

Section 2700.320 Deferred Compensation Hardship Committee

a) A Hardship Committee shall be formed that~~which~~ shall be responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution under Section 2700.740 of this Part~~the Plan~~.

b) Members of this Hardship Committee shall be appointed by the Department but shall include at least:

1) one Department employee, and

2) two persons not employees of the Department.

c) Members of this Committee shall be entitled to defer Compensation so long as they are otherwise eligible; however, no member of the Hardship Committee shall make any determination with respect to any interest that he or she may have under the Plan.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

SUBPART D: PARTICIPATION IN THE PLAN

Section 2700.400 Eligibility

All Employees shall be eligible to participate in the Plan and defer Compensation immediately upon becoming employed by the State.~~who are receiving Compensation on or after the date the Plan first became effective shall be eligible to become Participants.~~

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.410 Enrollment

a) Any Employee eligible to participate in the Plan may become a Participant by agreeing in writing, on a form to be provided by the Department, to a deferment of his or her Compensation.

b) The deferment will commence no sooner than the first Pay Period of the month following the date the form is properly completed by the Employee, accepted by the Department, and for which the Agency payroll has not closed.

c) A new Employee may defer Compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the State.

d~~e~~) The amount to be deferred will be selected by the Participant and will be agreed to at the time of enrollment. This~~Such~~ amount may not be less than the minimum amount allowable or exceed the basic annual limitation~~maximum amount~~

~~allowable~~.

e~~d~~) The amount deferred may be changed by the Participant at any time. The~~Such a~~ change shall become effective no sooner than the first Pay Period of the month following the date the form is properly completed by the Employee and accepted by the Department.

f~~e~~) A Participant's request to defer Compensation shall remain in effect until the Participant's Severance from Employment~~Termination of Service~~, unless revoked prior to that time. The Department shall suspend deferrals for the remainder of the calendar year for Participants who have deferred in excess of the allowable maximum. The Department shall also withdraw and return to the Participant the excess amount deferred.

g~~f~~) Deferrals can be made by reductions in Compensation only.

h~~g~~) The Participant election shall also include the designation of Investment Funds and a designation of Beneficiary. This election shall remain in effect until a new election is filed.

i) Acceptance by the Department shall be granted whenever forms are properly completed and the criteria set by the Plan for acceptance are met.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.415 Designation of Beneficiary

a) A Participant may designate a Beneficiary or Beneficiaries who will receive any balance in the Participant's Deferred Compensation Account in the event of his or her death.

b) A designation of Beneficiary shall be effective for subsequent distributions when received by the Department. The designation shall be in writing on a form provided by the Department for that purpose that has been signed by the Participant.

c) A Participant may, at any time, change his or her Beneficiary by completion of the form provided by the Department.

d) No Beneficiary shall have any rights under this Plan until the death of the

Participant who has designated him or her and a separate account has been established by the Department as provided for under this Section.

e) Participants may designate primary and contingent Beneficiaries. A contingent Beneficiary's interest will become effective only upon the death of any and all primary Beneficiaries, or if any and all of the primary Beneficiary designations have been found invalid.

f) If more than one Beneficiary is named in either category, benefits will be paid according to the following rules:

1) Beneficiaries can be designated to share equally or to receive specific percentages.

2) If a Beneficiary dies before the Participant, only the surviving Beneficiaries will be eligible to receive any benefits in the event of the death of the Participant. If more than two Beneficiaries are originally named to receive different percentages of the benefits, surviving Beneficiaries will share in the same proportion to each other as indicated in the original designation.

g) A person, trust, estate or other legal entity may be designated as a Beneficiary.

h) If a Beneficiary has not been designated, or a designation is ineffective due to the death of all Primary and Contingent Beneficiaries prior to the death of the Participant, or the designation is ineffective for any reason, the estate of the Participant shall be the Beneficiary.

i) Upon the death of the Participant, any Beneficiary entitled to the value of the Deferred Compensation Account under the provisions of this Section shall become a "vested Beneficiary" and have all the rights of the Participant, with the exception of making any deferrals.

j) Before the account can be distributed, the Beneficiary must provide the Department with his or her Social Security Number and a certified copy of the Participant's death certificate.

k) In the event of a conflict between the provisions of this Section and any annuity contract purchased prior to January 1, 1999, this Section shall prevail.

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(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.420 Minimum Deferment

a) Each Employee who becomes a Participant must agree to defer a minimum amount of $10 ~~ten dollars ($10.00)~~ per Pay Period or $20~~twenty dollars ($20.00)~~ per month, whichever is greater.

b) The minimum for an Employee who is a contractual Employee, who is participating in the Plan and who uses the Plan as an Alternate Retirement System as defined in regulations for Code section~~Section~~ 3121(b)(7)(F) is 7.5% of Compensation each Pay Period~~pay period~~ unless the minimum is changed by Code section~~Section~~ 3121(b)(7)(F) regulations, in which case the minimum is whatever is prescribed by the Code. If the 7.5% minimum is less than $10 a Pay Period~~pay period~~ or $20 a month, the latter becomes the minimum.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.430 Basic Annual Limitation~~Maximum Deferment~~

The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of the Applicable Dollar Amount or the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount in calendar year 2005 is $14,000; and in 2006, or after, the Applicable Dollar Amount is $15,000, adjusted for cost-of-living after 2006 to the extent provided under section 415(d) of the Code.~~a)The total amount of Deferred Compensation during any Plan Year shall not exceed:~~

~~1) 33 1/3% of Includable Compensation (25% of taxable compensation), or the maximum deferral amount as adjusted by the Internal Revenue Service pursuant to 26 U.S.C. 457(e)(15), whichever is less, or~~

~~2) the maximum amount allowable during the "Catch-up" period.~~

~~b) In no event, however, can the maximum amount deferred exceed:~~

~~1) $15,000 for any taxable year during which Catch-up is utilized, and~~

~~2) an amount in excess of the amount of an Employee's Compensation per Pay Period less deductions for FICA, any other taxes, pension contributions and other mandatory deductions.~~

~~c) If an individual participates in two or more deferred compensation plans maintained by different employers, the maximum that may be deferred under all plans for a taxable year cannot exceed the maximum deferral amount as defined by the Internal Revenue Service, or, as applicable, the maximum permitted under the Catch-up provision.~~

~~d) If a Participant has deferred Compensation in excess of the maximum amount allowable, the Department shall withdraw and return to the Participant the excess amount deferred.~~

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.435 Age 50 Catch-up Annual Deferral Contributions

A Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum age 50 catch-up Annual Deferrals for the year. The maximum dollar amount of the age 50 catch-up Annual Deferral for a year is $4,000 for calendar year 2005; and for 2006, or after, the maximum age 50 catch-up dollar amount is $5,000, adjusted for cost-of-living after 2006 to the extent provided under the Code.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.440 Special Section 457 Catch-up Limitation

a) If the applicable year is one of a Participant's last 3 calendar years ending before the year in which the Participant attains Normal Retirement Age, and the amount determined under this Section exceeds the amount computed under Sections 2700.430 and 2700.435 of this Part, then the Annual Deferral limit in the Plan shall be the lesser of:

1) An annual amount equal to 2 times the Applicable Dollar Amount for the applicable year as provided for in Section 2700.430 of this Part; or

2) The sum of:

A) An amount equal to the aggregate limit, as defined in Section 2700.430 of this Part, for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the aggregate

amount of Compensation that the Participant deferred under the Plan after December 31, 2001, plus

B) An amount equal to the aggregate limit referred to in section 457(b)(2) of the Code for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Section 2700.435 and this Section) minus the aggregate contributions to pre-2002 coordination plans for those years.

~~For one or more of the Participant's last three taxable years ending before the Participant attains Normal Retirement Age, a Participant may defer an additional amount, not in excess of the maximum amount deferrable, and not greater than the difference between the amount which could have been deferred under this Plan or another Plan authorized under Section 457 of the Code for each year since January 1, 1979, and the amount that was actually deferred during that time.~~

b) In no event can the deferred amount be more than the Participant's Compensation for the applicable years.~~A Participant eligible for Catch-up may defer the additional amount by declaring his or her Normal Retirement Age and by agreeing to the Catch-up conditions stated in this Section on a form to be provided by the Department.~~

c) If the Participant is or has been a participant in one or more other eligible plans within the meaning of section 457(b) of the Code, then this Plan and all other eligible 457(b) plans shall be considered as one plan for purposes of applying foregoing limitations of this Section. For this purpose, the Department shall take into account any other eligible plan for which the Department receives, from the Participant, sufficient information concerning his or her participation in the other plan.~~Once a Participant has deferred additional Compensation under the Catch-up provision of this Plan,~~

d) In applying this Section, a year shall be taken into account only if the Participant was eligible to participate in the Plan during all or a portion of the year and Compensation deferred, if any, under the Plan during the year was subject to the basic annual limitation described in Section 2700.430 of this Part or any other plan ceiling required by section 457(b) of the Code.

e) For purposes of subsection (a)(2)(B), "contributions to pre-2002 coordination plan" means any employer contribution, salary reduction or elective contribution

under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension deferred arrangement, Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in section 501(c)(18) of the Code, including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of subsection (a)(2)(B) of this Section to the extent that the total of the contributions does not exceed the aggregate limit referred to in section 457(b)(2) of the Code for that year.

f) If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described in subsection (a), or the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described in subsection (a) when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under section 457(b) of the Code, for which the Participant provides information that is accepted by the Department, then the Annual Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable to the investment), shall be distributed to the Participant.

g) An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may elect to make additional Annual Deferrals upon resumption of employment with the State equal to the maximum Annual Deferrals that the Employee could have elected during that period if the Employee's employment with the State had continued (at the same level of Compensation) without the interruption or leave, reduced by the Annual Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for 5 years following the resumption of employment (or, if sooner, for a period equal to 3 times the period of the interruption or leave).

~~1) he or she may not change his or her Normal Retirement Age.~~

~~2) he or she may not use the Catch-up provision more than once whether or not the Participant rejoins the Plan or joins a new plan, and whether or not the Catch-up is used in one or all three of the applicable taxable years.~~

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(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.450 Revocation of Deferral

a) Any Participant may revoke his or her election to have Compensation deferred by completing the Revocation Section of the Enrollment Form.

b) Following ~~such~~ notice of revocation, the Participant's full Compensation shall be restored as soon as possible. In no case shall deductions continue later than the Pay Period occurring 30 days after receipt of the revocation form and any other forms requested by the Department to fulfill the requirements of the Office of the Comptroller or any other State agency.

c) The Department shall suspend a Participant's deferrals for the remainder of the calendar year when the Participant has deferred in excess of the allowable maximum and shall withdraw and return the excess amount deferred consistent with Section 2700.440(f) of this Part.

d) Revocation shall not cause distribution of the Participant's Account.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section 2700.610 Allocation of Investment Earnings or Losses

a) To the extent that Investment Funds are established by the Board, Deferred Compensation Accounts shall be allocated among the~~such~~ Investment Funds according to the investment elections in effect on behalf of the Participants. Earnings and losses of each Investment Fund shall be based on the actual investment experience of the~~such~~ Investment Fund.

b) Earnings and losses will be measured from the Valuation~~Accounting~~ Date coincident with or immediately preceding the date on which any Deferred Compensation is invested in any Investment Fund to the Valuation Date~~Accounting Date~~ coincident with or immediately preceding the date any Deferred Compensation is withdrawn from any Investment Fund.

c) The amount of earnings or losses allocated to each Deferred Compensation Account shall reflect the proportion a Participant's Deferred Compensation

Account ~~represents~~ in relation to the other Deferred Compensation Accounts having an interest in that Fund.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.620 Investment Fund Valuation

a) Any Investment Fund under this Plan shall be valued at fair market value as of each Valuation Date~~Accounting Date~~.

b) Any withdrawals or distributions made under this Plan shall be made in cash by electronic transfer, or as authorized by the State.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.630 Administrative Costs

a) It is the intent of this Plan that it shall not be implemented or administered so as to be an expense to the State of Illinois, except for the State's obligation to pay the Deferred Compensation Accounts as provided in this Plan. Therefore, any expenses of maintaining and administering the Plan shall be borne by the Participants. Cost ~~Such cost~~ shall include, but not be limited to, the costs of:

1) making investments, exchanges, or distributions if any,

2) collecting the Deferred Compensation, and

3) providing information to Participants, Employees and other agencies of the State.

b) The method of sharing any expenses and the amount of those~~such~~ expenses shall be determined by the Department subject to the approval of the Board.

c) An asset charge at an annual rate not to exceed a cap of 1~~one~~ percent (.01) shall be levied against the Account of each Participant in the ~~State (of Illinois) Employees' Deferred Compensation~~ Plan. This~~Such~~ charge shall be assessed solely to offset the cost incurred by the State in administering the Plan. Any asset charge will be based on this cost~~such costs~~, but in no case may the actual charge exceed the established cap.

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(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.640 Method of Making Investment Requests

a) A Participant shall, at the time of enrollment, make an investment request on a form provided for that purpose by the Department.

b) Once made, an investment request shall continue for any deferments unless later changed by the Participant.

c) A Participant may change investment requests for future amounts of Deferred Compensation an unlimited number of times.

d) A change in investment request shall be made to the Plan's record keeper by telephone notice or use of internet on-line access programs. ~~effective no later than the second Pay Period following receipt of the properly completed form by the Department or telephone notice to the Plan's recordkeeper.~~

e) A Participant may change an investment request governing amounts previously deferred. However, after June 1, 1994, amounts previously deferred into the stable value~~return~~ option shall not be exchanged directly or indirectly into a money market or bond fund. Any exchange from the stable value~~return~~ option must first be exchanged into one of the other investment options for a period of 90 days.

f) There will be no charge for the first exchange each quarter of each Plan Year. Each additional exchange will be assessed a transaction charge of $10.~~00~~

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.660 Custodial Account

a) Notwithstanding any contrary provision of the Plan, in accordance with section~~Section~~ 457(g) of the Code, all amounts of Compensation ~~compensation~~ deferred pursuant to the Plan, all property and rights purchased with these~~such~~ amounts, and all income attributable to these~~such~~ amounts, property, or rights shall be held in one or more Custodial Accounts ~~custodial accounts~~ for the exclusive benefit of Participants~~participants~~ and Beneficiaries~~beneficiaries~~ under the Plan. For purposes of this subsection, the Custodian~~custodian~~ of any Custodial Account~~custodial account~~ created pursuant to the Plan must be a bank,

as described in section~~Section~~ 408(n) of the Internal Revenue Code, or a person who meets the non-bank trustee requirements in accordance with the regulations under section~~Section~~ 408(a)(2) of the Code relating to the use of non-bank trustees. All amounts of Compensation~~compensation~~ deferred under the Plan shall be transferred to a Custodial Account ~~custodial account~~ described in section~~Section~~ 401(f) of the Code within a period that is not longer than is reasonable for the proper administration of the accounts of Participants~~participants~~.

b) The Participant and his or her Beneficiary~~beneficiary~~ shall not have any property interest whatsoever in any specific asset of the State of Illinois on account of his or her election to defer any Compensation under this Plan.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.680 Rollovers to the Plan

a) A Participant who is an Employee and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan.

b) The Department may require documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that the plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code.

c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include:

1) any installment payment for a period of 10 years or more;

2) any distribution made as a result of an Unforeseeable Emergency or other distribution that is made to a Participant; or

3) for any other distribution, the portion, if any, of that distribution that is a required minimum distribution under section 401(a)(9) of the Code. Section 401(a)(9) of the Code outlines required distributions and the manner in which those distributions must be made.

d) In addition, an eligible retirement plan means an individual retirement account described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code that accepts the eligible rollover distribution.

e) The Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under section 457(b) of the Code.

f) In addition, the Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is an eligible governmental plan under section 457(b) of the Code.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.690 Plan-to Plan Transfers to the Plan

a) Participants who participate in another eligible governmental plan under section 457(b) of the Code may transfer assets to the Plan as provided in this Section. A transfer is permitted only if the other plan provides for the direct transfer of a Participant's interest in the other plan to the Plan.

b) The transfer is permitted only in the form of cash or other similar property deemed acceptable to the Department.

c) The Department may require documentation from the other plan as it deems necessary to effectuate the transfer in accordance with section 457(e)(10) of the Code and 26 CFR 1.457-10(b) (2005) and to confirm that the other plan is an eligible governmental plan as defined in 26 CFR 1.457-2(f) (2005).

d) The amount transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Annual Deferral under the Plan in determining the maximum deferral under Section 2700.430 of this Part.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

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SUBPART G: DISTRIBUTIONS

Section 2700.700 Distribution Events

a) Distributions under this Plan will be made in accordance with the regulations under section~~Section~~ 401(a)(9) of the Code (26 CFR 54 (2005)~~, 52 FR 28070, July 27, 1987~~). The provisions reflecting section~~Section~~ 401(a)(9) override any distribution options in the Plan inconsistent with section~~Section~~ 401(a)(9).

b) A Participant's Deferred Compensation Account may begin to be distributed 30 days after the date of one of the following events:.

1) Severance from Employment~~Termination of Service~~,

2) Death, or

3) Delayed Distribution Date.

c) A Participant's Deferred Compensation Account may begin to be distributed as soon as possible but not later than 30 days after determination of an Unforeseeable Emergency by the Hardship Committee.

d) A Participant, with $5,000~~3,500~~ or less in his or her Deferred Compensation Account, may elect to cash out the Account in compliance with conditions specified in Section 2700.735 of this Part.

e) No distributions will be made to a Participant who is employed as an independent contractor before a date that~~which~~ is at least 12 months after the day on which his or her employment contract expires. Should the independent contractor be re-employed by the State as either an Employee or independent contractor during the 12-month waiting period, no distribution will be started on the projected distribution date. If the contractor has attained age 70½ at the time the contract is terminated, the 12-month waiting period is waived.

f) Participants are responsible for notifying the Department of their Termination of Service.

g) Beneficiaries are responsible for notifying the Department of the death of the Participant and supplying the Department with a certified copy of the Death Certificate.

h) A Participant who does not receive the initial distribution until the calendar year following the year in which he or she reaches age 70½ or separates, if he or she works past age 70½, will receive at least 2~~two~~ taxable distributions in the same year.

i) If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.

j) An alternate payee, pursuant to the terms of a qualified domestic relations order, may at any time elect to receive a distribution of all or any portion of the amount held and maintained on behalf of the alternate payee upon the proper execution and designation under the qualified domestic relations order.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.710 Beneficiary Election of Method of Distribution

a) Commencing in the calendar year following the calendar year of the Participant's death, the Participant's Account Balance shall be paid to the Beneficiary in a lump sum. ~~Within 60 days after the date of death of a Participant, the Beneficiary shall elect a method of distribution.~~

b) Alternatively, if the Beneficiary with respect to the Participant's Account Balance is a natural person, at the Beneficiary's election, distribution can be made in annual installments (calculated in a manner that is similar to installments under Section 2700.730 of this Part) with the distribution period determined in the following manner: ~~In the case of a distribution to a Beneficiary when the account was partially distributed to the Participant before death:~~

1) If the Beneficiary is the Participant's surviving spouse, the distribution period is equal to the Beneficiary's life expectancy using the single life table in 26 CFR 1.401(a)(9)-9, A-1 (2005) for the spouse's age on the spouse's birthday for that year. ~~The Beneficiary may elect one of the options provided in Section 2700.730.~~

2) If the Beneficiary is not the Participant's surviving spouse, the distribution period is the Beneficiary's life expectancy determined in the year following the year of the Participant's death using the single life table in

26 CFR 1.401(a)(9)-9, A-1 (2005) for the Beneficiary's age on the Beneficiary's birthday for that year, reduced by one for each year that has elapsed after that year.~~The installment period is limited to the balance of the deceased Participant's installment period.~~

~~3) Distribution to a Beneficiary who does not make an election within the 60-day election period will be a continuation of the method under which the account was being distributed prior to the Participant's death, unless the amount of the account is $3,500 or less in which case the distribution will be immediately in a lump sum.~~

c) For any year, a Beneficiary can elect distribution of a greater amount (not to exceed the amount of the remaining Account Balance) rather than the amount calculated under Section 2700.710(b).~~In the case of a distribution to a Beneficiary when the Participant died before distributions began:~~

~~1) The Beneficiary may elect one of the options provided in Section 2700.730.~~

~~2) The installment period cannot exceed the Beneficiary's life expectancy or 15 years, whichever is shorter.~~

~~If a Participant has more than one designated Beneficiary, the designated Beneficiary with the shortest life expectancy will be the designated Beneficiary for purposes of determining the distribution period.~~

~~3) The Beneficiary who does not make an election within the 30-day election period will have the account distributed in five annual installments, unless the amount of the account is $3,500 or less in which case it will be distributed immediately in a lump sum.~~

~~d) If the Beneficiary dies after the distribution has commenced:~~

~~1) The balance of the account will be distributed to the Beneficiary of the Beneficiary receiving distributions.~~

~~2) The distribution method will be a continuation of the method in effect prior to the Beneficiary's death, unless the amount of the account is under $3,500 in which case the distribution will be immediately in a lump sum.~~

~~e) The Beneficiary's election becomes irrevocable after the 60-day election period expires.~~

~~f) If the designated Beneficiary is other than an individual:~~

~~1) The Beneficiary may elect a lump sum cash payment of all or a portion of the balance of the account, or~~

~~2) The Beneficiary may elect installments over a period of time not longer than five years.~~

~~3) The Beneficiary who does not make an election within the 60-day election period will have the account distributed in a lump sum.~~

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.720 Election of Delayed Distribution Date (Repealed)

~~a) Within 60 days after Termination of Service, a Participant may elect a Delayed Distribution Date. Participant's election becomes irrevocable after the 60-day election period expires.~~

~~b) The Delayed Distribution Date may be:~~

~~1) A specific future date,~~

~~2) Normal Retirement Age.~~

~~c) In no case may a Participant elect a Delayed Distribution Date beyond age 70 1/2.~~

~~d) A Participant may elect to make a one-time change forward of the Delayed Distribution Date provided that the election is made during the 30-day election period after the Delayed Distribution Date is reached and such election shall be irrevocable.~~

~~e) In the event a Participant who has terminated State service and elected a Delayed Distribution Date returns to State employment prior to reaching the Delayed Distribution Date, the Delayed Distribution Date is effectively voided. Whether or not the Participant resumes deferrals shall not affect the nullification.~~

~~f) Neither a Participant who works past age 70 1/2, nor a participant with an account value less than $3,500, nor a Beneficiary may elect a Delayed Distribution Date.~~

(Source: Repealed at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.730 Election of Method of Distribution

a) In an election to commence benefits as provided for under Section 2700.700 of this Part, a Participant entitled to a distribution of benefits may elect to receive payment in any of the following forms of distribution:~~At any time prior to the end of the Participant's election period, a Participant may elect one or more of the following methods by which the Deferred Compensation Account shall be distributed:~~

1) a lump sum payment of the total Account Balance; or~~A lump sum cash payment of all or a portion of the balance of the Account. The amount paid for such lump sum withdrawal shall be based upon the value of the Participant's Account as of the Accounting Date.~~

2) annual installment payments through the year of the Participant's death, the amount payable each year equal to a fraction of the Account Balance equal to 1 divided by the distribution period set forth in the Uniform Lifetime Table at 26 CFR 1.401(a)(9)-9, A-2 (2005) for the Participant's age on the Participant's birthday for that year.~~Monthly installments of fixed dollar amounts.~~

A) If the Participant's age is less than age 70, the distribution period is 27.4 plus the number of years that the Participant's age is less than age 70.~~The installment dollar amount may be selected by the Participant, but shall not be less than the amount determined to provide for total payout over a period of years not to exceed the life expectancy of the Participant.~~

B) At the Participant's election, this annual payment can be made in monthly, quarterly or semi-annual installments.~~The installment dollar amounts may be changed by the Department, but only to assure adherence to Section 2700.730(a)(3)(B) of the Plan or as ordered by the Hardship Committee.~~

C) The Account Balance for this calculation (other than the final installment payment) is the Account Balance as of the end of the year prior to the year for which the distribution is being calculated.~~The amount of each distribution may be transferred electronically to the Participant's bank or other account which accepts direct deposits.~~

D) For any year, the Participant can elect distribution of a greater amount (not to exceed the amount of the remaining Account Balance) rather than the amount calculated under subsection (a)(2)(C).

~~3) In installments over a period of years not longer than the life expectancy of the Participant.~~

~~A) Such installments shall be made in regular increments of monthly, quarterly, semi-annual or annual payments. The amount of each distribution may be transferred electronically to the Participant's bank or other account which accepts direct deposits from the State, or its agent, except for annual payments.~~

~~B) Such installments shall be made in such amount to assure that the total value of the Participant's account shall be received by the Participant during his or her projected life time (as determined at the time distributions commence or as otherwise provided by applicable code and regulations).~~

~~C) For the purposes of this Plan, the Participant's life expectancy shall be determined by an applicable Internal Revenue Service Table in accordance with the regulations under Section 401(a)(9) of the Code, provided, however, that the Participant may elect whether or not his or her life expectancy will be recalculated annually. Such election must be made prior to the first required distribution date, shall be irrevocable and shall apply to all subsequent years.~~

~~D) Any portion of the Deferred Compensation Account which has not been distributed shall continue to be credited and/or debited according to the provisions of Sections 2700.600 and 2700.610.~~

~~E) The amount of a periodic installment benefit payment shall be determined each time there is a distribution. This amount shall be~~

~~calculated on the Accounting Date for the month based on the value of the Participant's Account on that date and the number of installments remaining. However, the final installment will be an amount equal to the value of the Participant's Account on the Accounting Date for that final distribution.~~

~~4) A transfer of all of the account from this plan to an eligible plan authorized under Section 457 of the Code.~~

~~A) The State or local government sponsoring the receiving 457 Plan is responsible for determining whether the Plan is eligible and certifying the same on a form provided by the Department.~~

~~B) The transfer will commence on the next Accounting Date following receipt of the certification and any other required forms.~~

~~C) In the event the receiving plan is not an eligible plan or does not authorize transfers, the distribution of the account will be held no longer than 180 days and the Participant will be given 30 days to make a new distribution method election.~~

b) A Participant or the surviving spouse of a Participant (or a Participant's former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Department, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover. An eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403 (b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.~~If the Participant does not elect a method of distribution prior to the end of the Participant's election period, the Deferred Compensation Account will be distributed in five annual installments, unless the amount of the account is $3,500 or less in which case it will be distributed immediately in a lump sum.~~

c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's Account Balance, except that an eligible rollover distribution does not include:

1) any installment payment under subsection (a) of this Section for a period of 10 years or more;

2) any distribution made under Section 2700.740 of this Part as a result of an Unforeseeable Emergency; or

3) the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) other than those distributions described in subsections (c)(1) and (c)(2).

~~The Participant's election becomes irrevocable after the election period expires.~~

d) In no event shall any distribution under this Section begin later than the latter of:

1) April 1 of the year following the calendar year in which the Participant attains age 70½; or

2) April 1 of the year following the year in which the Participant retires or otherwise has a Severance from Employment.

e) If distributions commence in the calendar year following the latter of the calendar year in which the Participant attains age 70½ or the calendar year in which the Severance from Employment occurs, the distribution on the date that distribution commences must be equal to the annual installment payment for the year that the Participant has a Severance from Employment determined under subsection (a)(2) of this Section, and an amount equal to the annual installment payment for the year after Severance from Employment determined under subsection (a)(2) of this Section must also be paid before the end of the calendar year of commencement.

f) Any election made under this Section may be revoked at any time.

g) Any portion of the Deferred Compensation Account that has not been distributed shall continue to be credited and/or debited according to the provisions of Sections 2700.600 and 2700.610 of this Part.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.735 Distribution for Certain Balances of $5, 000 or Less~~of Small Accounts~~

At the direction of the Participant, a Participant's total Account Balance shall be paid in a lump sum on the next Valuation Date following the direction if:

a) the total Account Balance does not exceed $5,000;

b) the Participant has not previously received a distribution of the total amount payable to the Participant under this Section; and

c) no Annual Deferral has been made with respect to the Participant during the 2-year period ending immediately before the date of the distribution.

~~a) If a Deferred Compensation Account plus any uninvested deferrals on the date the Participant separates from State service (or dies) is equal to or less than $3,500, the Account shall be distributed in a lump sum on the next Accounting Date or, in the event of the participant's separation, transferred to another 457 Plan in accordance with Section 2700.730(a)(5).~~

~~b) If a Participant's Deferred Compensation Account is $3,500 or less, such Account may be distributed, in a lump sum on the next Accounting Date, to the Participant during employment provided the Participant has not contributed to the Account during the 2-year period ending on the date of the distribution. The cash-out provisions may be used only once by a Participant.~~

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.740 Unforeseeable Emergency

a) A distribution of all or a portion of a Participant's Deferred Compensation Account or a change in method of distribution to a Participant shall be permitted in the event the Participant experiences an Unforeseeable Emergency.

b) Distributions shall not be made to the extent that the~~such~~ hardship is or may be relieved:

1) through reimbursement or compensation by insurance or otherwise;~~,~~

2) by liquidation of the Participant's assets to the extent the liquidation of ~~such~~ assets would not itself cause severe financial hardship;~~,~~ or

3) by cessation of deferrals under the Plan.

c) A Participant's deferrals will automatically be revoked upon application for a hardship distribution.

d) If the application is approved, the Participant cannot re-enroll for 6~~12~~ months following receipt of the hardship application, unless the application is to request cessation of distribution payments.

e) For the purposes of this Plan, a Beneficiary whose interest has "vested" in accordance with Section 2700.415 of this Part~~2700.750~~ shall have all rights of a Participant to request a distribution in the event of an Unforeseeable Emergency.

f) A Participant desiring a distribution by reason of a serious Unforeseeable Emergency must apply to the Hardship Committee and demonstrate that:

1) the circumstances being experienced were not under the Participant's control, and

2) the circumstances constitute a real emergency that~~which~~ is likely to cause the Participant great financial hardship.

g) The Hardship Committee shall have the authority to require ~~such~~ medical or other evidence as it may need to determine the necessity for Participant's withdrawal request. In the event this information is not provided, the case will be considered closed 60 days after the date of request by the Hardship Committee.

h) The Hardship Committee shall reach its decision to approve or disapprove the financial hardship withdrawal request within 30 days following receipt of the completed application and necessary information required by the application or the Hardship Committee.

i) In the event a Participant is not satisfied with the decision of the Hardship Committee on an application for an Unforeseeable Emergency distribution or change in distribution, the Participant may appeal in writing to the Board within 15 days after~~of~~ receipt of the Hardship Committee's decision.

j) The Board shall, within 30 days after~~of~~ receipt of the appeal, conduct a hearing and review evidence presented by the Participant.

k) The Board shall then render a final decision within 15 days after~~of~~ the hearing

~~which~~ that shall be binding on all parties.

l) If an application for an Unforeseeable Emergency distribution is approved, the distribution shall be limited to an amount sufficient only to meet the emergency and shall in no event exceed the amount of his or her Deferred Compensation Account as of the Valuation~~Accounting~~ Date next preceding or coincident with the~~such~~ withdrawal.

m) The allowed distribution shall be payable in a method determined by the Hardship Committee and shall commence as soon as possible, but not later than 30 days after notice to the Participant and the Department of approval of the request by the Committee.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.745 Plan-to-Plan Transfers from the Plan

a) Participants and Beneficiaries may elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of section 457(b) of the Code and 26 CFR 1.457-2(f) (2005).

b) A transfer is permitted under this Section only if:

1) the Participant has had a Severance from Employment with the State and is an employee of the entity that maintains the other eligible governmental plan; and

2) the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

c) Upon the transfer of assets under this Section, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount transferred for the Participant or Beneficiary.

d) The Department may require documentation from the receiving plan as it deems appropriate or necessary to comply with this Section or to effectuate the transfer pursuant to 26 CFR 1.457-10(b) (2005).

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.750 Permissive Service Credit Transfers~~Designation of Beneficiary~~

a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in section 414(d) of the Code) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan.~~A Participant may designate a Beneficiary or Beneficiaries who will receive any balance in the Participant's Deferred Compensation Account in the event of his or her death.~~

b) A transfer under this Section may be made before the Participant has had a Severance from Employment.~~A designation of Beneficiary shall be effective for subsequent distributions when received by the Department. Such designation shall be in writing and should be made on a form provided by the Department for that purpose which has been signed by the Participant.~~

c) A transfer may be made under this Section ~~2700.750~~only if the transfer is either for the purchase of permissive service credit (as defined in section 415(n)(3)(A) of the Code) under the receiving defined benefit governmental plan or a repayment to which section 415 of the Code does not apply by reason of section 415(k)(3) of the Code.~~A Participant may, at any time, change his or her Beneficiary by completion of the form provided by the Department.~~

d) The amount of the transfer must be an amount equal to the amount of the intended purchase of the permissive service credit. No partial payment is allowed.~~No Beneficiary shall have any rights under this Plan until the death of the Participant who has designated him or her.~~

~~e) Participants may designate primary and contingent Beneficiaries. A contingent Beneficiary's interest will become effective only upon the death of all primary Beneficiary(ies), or if all the primary Beneficiary(ies) designation(s) has (have) been found invalid.~~

~~f) If more than one Beneficiary is named in either category, benefits will be paid according to the following rules:~~

~~1) Beneficiaries can be designated to share equally or to receive specific~~

~~percentages.~~

~~2) If a Beneficiary dies before the Participant, only the surviving Beneficiaries will be eligible to receive any benefits in the event of the death of the Participant. If more than two Beneficiaries are originally named to receive different percentages of the benefits, surviving Beneficiaries will share in the same proportion to each other as indicated in the original designation.~~

~~g) A person, trust, estate or other legal entity may be designated as a Beneficiary.~~

~~h) If a Beneficiary has not been designated, or a designation is ineffective due to the death of all Primary and Contingent Beneficiaries prior to the death of the Participant, or the designation is ineffective for any reason, the estate of the Participant shall be the Beneficiary.~~

~~i) Upon the death of the Participant, any Beneficiary entitled to the value of the Deferred Compensation Account under the provisions of this Section shall become a "Vested Beneficiary" and have all the rights of the Participant with the exception of making any deferrals.~~

~~j) Before the account can be distributed, the Beneficiary must provide the Department with his or her Social Security Number, and a certified copy of the Participant's death certificate.~~

~~k) In the event of a conflict between the provisions of this Section and any annuity contract purchased in accordance with Section 2700.730(a)(4), as in effect prior to January 1, 1999, the latter shall prevail.~~

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.760 Leave of Absence

a) Any Participant who is granted a leave of absence by the Employer may continue to participate in this Plan as long as the leave of absence is approved by the Employer.

b) If an approved leave of absence is terminated by the Employer or Employee without the resumption of the employment relationship, and if the Employee has been removed from the payroll for 30 days, the Participant shall be treated as

having a Severance of Employment~~Termination of Service~~ under this Plan, as of the date of termination of the~~such~~ leave, and may elect a distribution method as provided in Section 2700.730 of this Part~~shall have 60 days to elect a method of distribution~~.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

SUBPART H: MISCELLANEOUS

Section 2700.800 Nonassignability

a) The contract entered into between the Employer and a Participant through this Plan and the benefits, proceeds or payments under this Plan~~thereunder~~ cannot be sold, assigned, pledged, commuted, transferred or otherwise conveyed by an Employee, Participant or Beneficiary. Any attempt to assign or transfer shall not be recognized and shall impose no liability upon the Employer.

~~b) To the extent required under a final judgment, decree, or order made pursuant to a State domestic relations law that relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse or child or other dependent of the Participant (an "Alternate Payee"), a portion of a Participant's Deferred Compensation Account may be transferred to a separate account and any amount so set aside shall be distributed to the Alternate Payee upon the Participant's termination of service or death, whichever of the two events shall first occur.~~

b~~e~~) Except as otherwise required by law and as provided in Sections 2700.850 and 2700.860 of this Part, any Deferred Compensation monies withheld pursuant to this Plan shall not be subject to attachment, garnishment, or execution, or to transfer by operation of law in the event of bankruptcy or insolvency of the Participant or otherwise.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.850 Domestic Relations Orders

a) Notwithstanding Section 2700.800 of this Part, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made

pursuant to the domestic relations law of the state (domestic relations order), then the amount of the Participant's Account Balance shall be paid in the manner and to the person or persons so directed in the domestic relations order.

b) Payment under a judgment, decree or order shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan.

c) The Department shall establish reasonable procedures for determining the status of any decree or order and for effectuating distribution pursuant to the domestic relations order.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.860 IRS Levy

Notwithstanding Section 2700.800 of this Part, the Department may pay from a Participant's or Beneficiary's Account Balance the amount that the Department finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against a Participant or Beneficiary.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

Section 2700.870 Mistaken Contributions

If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then, within one year after the payment of the contribution and upon receipt in good order of a proper request approved by the Department, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, resulting from the good faith mistake) shall be returned directly to the Participant or, to the extent required by the Department, to the Employer, who will then return the funds to the Participant.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

SUBPART I: AMENDMENT OR TERMINATION OF PLAN

Section 2700.920 Merger with Prior Plans

a) This Plan constitutes an amendment and restatement of the State Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700) adopted at 7 Ill. Reg.

10845, effective August 31, 1983 (Prior Plan III).

b) All Participants and any Compensation deferred under the Prior Plans are, from the Effective Date of this Plan, governed by the terms of this Plan subject to the following provisions:

1) All deferrals elected under the Prior Plans shall continue without further action so long as they do not exceed the limits defined in Section 2700.430 of this Part.

2) Any investment requests made under the Prior Plans shall continue to apply to any deferrals made under this Plan until changed by a Participant in accordance with Section 2700.640 of this Part.

3) Any election of the method of distribution of benefits made through Prior Plan I shall be void, and a Participant or Beneficiary may elect the form of distribution in accordance with Sections 2700.710 and 2700.730 of this Part~~Plan~~.

4) Any election of the method of distribution of benefits made through Prior Plan II and III shall remain in full force and effect unless it conflicts with the provisions of this Plan. In the event of a conflict, a Participant or Beneficiary shall have 30 days from date of notification to elect a new method of distribution consistent with the requirements of this Plan.

c) Any Delayed Distribution Dates elected under Prior Plan II by a Participant or Beneficiary made prior to October 27, 1982 shall remain in full force and effect and are irrevocable. Delayed Distribution Dates elected under Prior Plan II made after October 27, 1982 shall be void if they conflict with the provisions of this Plan. A Participant whose Delayed Distribution Date is void shall have his or her Deferred Compensation Account distributed in accordance with Section 2700.730 of this Part.

d) A Participant who has elected a Delayed Distribution Date but not yet reached it may choose, within 60 days from the effective date of this Plan, to transfer the value of the account to another eligible plan authorized under section 457 of the Code.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Technology Advancement and Development Act Programs

2) Code Citation: 14 Ill. Adm. Code 545

3)

Section Numbers:	Adopted Action:
545.20	Amend
545.120	Amend
545.510	New Section
545.520	New Section
545.530	New Section
545.540	New Section
545.550	New Section
545.560	New Section

4) Statutory Authority: Implementing and authorized by Technology Advancement and Development Act [20 ILCS 700]

5) Effective Date of Rulemaking: April 19, 2006

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: 30 Ill. Reg. 1162; January 27, 2006

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 amendment replace an emergency amendment currently in effect? No. The companion emergency rulemaking expired on April 1, 2006.

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: The Homeland Security Market Development grant line was established to provide resources for the Department of Commerce and Economic Opportunity to provide financial incentives to public or private entities engaged in homeland security product research and development; product improvement or commercialization; planning and coordination; or for the improvement of homeland security services. The grant line may be used for activities generally consistent with the intent of Section 2002 of the Act, such as providing investments, loans, or grants to individual businesses, partnerships or joint ventures that provide or commercialize products or services that meet homeland security or defense needs. Further, grant monies may be used to fund not-for-profit or educational institutions that make available resources and expertise that further homeland security prevention, recovery, planning, or service delivery; support development of the technical or managerial skills for business owners and entrepreneurs; aid commercial ventures in locating financing product or service development; and help new companies or partnerships with product development.

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:

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE C: ECONOMIC DEVELOPMENT
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY~~COMMUNITY AFFAIRS~~

PART 545
TECHNOLOGY ADVANCEMENT AND DEVELOPMENT ACT PROGRAMS

SUBPART A: ADMINISTRATIVE REQUIREMENTS

Section
545.10 General Purpose
545.20 Definitions
545.30 Administrative Requirements

SUBPART B: TECHNOLOGY CHALLENGE GRANT PROGRAM

Section
545.110 Purpose
545.120 Authorized Programs and Activities
545.130 Eligible Applicants

SUBPART C: ENTERPRISE DEVELOPMENT AND INVESTMENT PROGRAM

Section
545.210 Purpose
545.220 Direct Investment Strategy
545.230 Portfolio Investment Strategy
545.240 Illinois Technology Enterprise Development Centers

SUBPART D: BUSINESS MODERNIZATION PROGRAM

Section
545.310 Purpose
545.320 Modernization Retooling Loan Program
545.330 Modernization Grants Program
545.340 Development Corporations
545.350 Manufacturing Extension Program
545.360 Manufacturing and Export Base Services Program

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: DIRECT GRANT, INVESTMENT, AND LOAN APPLICATION PROCEDURES

Section
545.410 Methods of Direct Grant, Investment, and Loan Application Submittal
545.420 Application Content
545.430 Screening of Applications
545.440 General Review Criteria
545.450 Program Specific Criteria

SUBPART F: HOMELAND SECURITY PROGRAM

Section
545.510 Purpose
545.520 Authorized Programs and Activities
545.530 Eligible Applicants
545.540 Eligible Costs
545.550 Ineligible Costs
545.560 Reporting Requirements

AUTHORITY: Implementing and authorized by the Technology Advancement and Development Act [20 ILCS 700].

SOURCE: Emergency rules adopted at 13 Ill. Reg. 19753, effective December 1, 1989, for a maximum of 150 days; emergency expired April 30, 1990; adopted at 14 Ill. Reg. 9016, effective, May 29, 1990; amended at 15 Ill. Reg. 15040, effective October 4, 1991; amended at 18 Ill. Reg. 8415, effective May 23, 1994; amended at 18 Ill. Reg. 17213, effective, November 17, 1994; old Part repealed, new Part adopted at 25 Ill. Reg. 15997, effective November 29, 2001; emergency amendment at 29 Ill. Reg. 15045, effective September 21, 2005, for a maximum of 150 days; emergency amendment repealed at 29 Ill. Reg. 19284, effective November 3, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 18950, effective November 3, 2005, for a maximum of 150 days; emergency expired April 1, 2006; amended at 30 Ill. Reg. 8450, effective April 19, 2006.

SUBPART A: ADMINISTRATIVE REQUIREMENTS

Section 545.20 Definitions

a) Definitions in the Act: The following words and phrases, for the purpose of this Part~~rule~~, have the same meaning respectively ascribed to them in Section 1003 of

the Act [20 ILCS 700/1003].

"Advanced technology project" means any area of basic or applied research or development which is designed to foster greater knowledge or understanding, or which is designed for the purposes of improving, designing, developing, prototyping, producing or commercializing new products, techniques, processes or technical devices in present or emerging fields of health care and biomedical research, information and communication systems, computing and computer services, electronics, manufacturing, robotics and materials research, transportation and aerospace, agriculture and biotechnology, and finance and services.

"Business expense" includes working capital financing, the purchase or lease of machinery and equipment, or the lease or purchase of real property, including construction, renovation, or leasehold improvements, but does not include refinancing current debt.

"Business project" means any specific economic development activity of a commercial, industrial, manufacturing, agricultural, scientific, financial, service or other not-for-profit nature, which is expected to yield an increase in jobs or to result in the retention of jobs or an improvement in production efficiency.

"Department" means the Illinois Department of Commerce and Economic Opportunity~~Community Affairs~~.

"Director" means the Director of the Illinois Department of Commerce and Economic Opportunity~~Community Affairs~~.

"Financial assistance" means a loan, investment, grant or the purchase of qualified securities or other means whereby financial aid is made available to or on behalf of a business project or advanced technology project.

~~"Illinois Coalition" means a not-for-profit, nonpartisan private-public partnership of the State's top leaders from business, labor, government, education, and research dedicated to strengthening Illinois' economy through science and technology. The Coalition develops statewide policy, positions, plans and programs that directly address the growth of the State's science and technology-based economy. The Coalition focuses development activities in the following areas: education, State and federal funding priorities, information technology, life sciences, advanced manufacturing, access to capital, and marketing and development. The Coalition works in concert with other industry~~

~~associations, government entities, private enterprises and elected officials to accomplish its mission~~.

"Intermediary organization" means any participating organization including not-for-profit entities, for-profit entities, State development authorities, institutions of higher education, other public or private corporations, which may include ~~the Illinois Coalition,~~ the Illinois Terrorism Task Force, or other governmental or private~~or other~~ entities necessary or desirable to further the purpose of this Act engaged by the Department through any contract, agreement, memoranda of understanding, or other cooperative arrangement to deliver programs authorized under the Act.

"Investment loan" means any loan structured so that the applicant repays the principal and interest and provides a qualified security investment to serve both as additional loan security and as an additional source of repayment.

"Loan" means acceptance of any note, bond, debenture, or evidence of indebtedness, whether unsecured or secured by a mortgage, pledge, deed of trust, or other lien on any property, or any certificate of, receipt for, participation in, or an option to any of the foregoing. A loan shall bear such interest rate, with such terms of repayment, secured by such collateral, with other terms and conditions, as the Department shall deem necessary or appropriate.

"Participating lender or investor" means any trust company, bank, savings bank, credit union, merchant bank, investment bank, broker, investment trust, pension fund, building and loan association, savings and loan association, insurance company, venture capital company or other institution, community or State development corporation, development authority authorized to do business by an Act of this State, or other public or private financing intermediary approved by the Department whose purposes include financing, promoting, or encouraging economic development financing.

"Qualified security investments" means any stock, convertible security, treasury stock, limited partnership interest, certificate of interest or participation in any profit sharing agreement, preorganization certificate or subscription, transferable share, investment contract, certificate of interest or participation in a patent or application or, in general, any interest or instrument commonly known as a "security" or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing, but not including any instrument which contains voting rights or which can be converted to contain

voting rights in the possession of the Department.

b) Other Definitions:

"Act" means the Technology Advancement and Development Act [20 ILCS 700].

"Leveraged dollar award" means grant funds awarded to the grant applicant intended to be used as leverage to secure additional funding from other public or philanthropic sources.

"Partnership" or "joint venture" means any organization, formed either through contract or mutual agreement, where two or more persons agree to do business together.

"Product" means a commodity or service with commercial value that is either further developed or brought to market through use of grant funds.

"Recipient" means any entity receiving financial assistance under the Act.

"Service" means any service that would advance the commercialization of a technology with applicability to the homeland security industry. This would include, but is not limited to, the protection of intellectual property rights, business continuity and recovery, research and development, and technology integration.

"Small and medium size business" means any for-profit business with 1,000 or fewer employees assigned to work locations within the State of Illinois.

(Source: Amended at 30 Ill. Reg. 8450, effective April 19, 2006)

SUBPART B: TECHNOLOGY CHALLENGE GRANT PROGRAM

Section 545.120 Authorized Programs and Activities

a) Grants may be awarded for the activities specified at Section 2002 of the Act, including:

1) Advanced Technology Projects – The Department may award initial grant funds for applied innovation research projects that *respond to unique, advanced technology projects and which foster the development of Illinois'*

economy through the advancement of the State's economic, scientific, and technological assets.

2) Leveraged Technology Projects – The Department may award initial grant funds for applied innovation research projects *to assist eligible applicants in the State to apply for, or qualify for and leverage, federal funds awarded for advanced technology projects concerning research and development, business innovation research or technical development, or transfer of useful technology to the private sector*.

3) University-Industry Partnerships – The Department may grant funds for joint university and industry initiatives that create high-skill employment opportunities and internship activities that enable graduates and faculty to stay and work in Illinois. The Department may also grant funds for joint university and industry initiatives designed to strengthen the relationship between industry and academia, so that applied university research is responsive to the needs of Illinois' industries.

4) Technology Commercialization Centers – The Department may award grant funds to create and operate *centers of excellence in technology commercialization, innovation evaluation, and intellectual property management that encourages the growth of new enterprises based on technologies developed at Illinois research centers, including technology partnerships, technology consortiums or research centers, and industry technology associations that are, or will be, established to perform research and development in present and emerging technologies that can be developed for use by commerce and industry*.

5) Technology Transfer Projects – The Department may award grant funds for *technology transfer projects involving promotion of new or innovative technologies among small and medium-sized Illinois manufacturers where the technologies have immediate commercial application*.

6) Continuous Improvement Projects – The Department may award grant funds to provide for *planning and operational support for statewide support that improves practices in technology commercialization, including needs assessment and evaluation of the status of technology implementation throughout the State.* [20 ILCS 700/2002]

7) Capacity and Program Development Projects – The Department may award grant funds to qualified not-for-profit organizations or educational institutions in order to support service delivery improvement projects, in order to extend Department capacity in relation to implementation of homeland security market development programs, or for the operation of legislatively directed councils or coordinating bodies.

8) Product and Service Development Projects – The Department may award grant funds to individual companies or partnerships with operations in Illinois for products or professional services that address unique or emerging national needs in homeland security, safety or defense, or support the development of solutions to these needs.

b) Allowable Costs – Allowable costs are specified in Section 2002(b) of the Act, including costs for *capital improvements, equipment, contractual services, commodities, personnel, support costs, including telecommunications, electronic data and commodities, or other costs*. All costs are subject to the approval of the Department. Indirect costs shall be limited to no more than 15% of direct grant costs. [20 ILCS 700/2002(b)]

c) Combination with Technology Enterprise Development Centers – As a means of increasing cost efficiency of program delivery, the Department may combine program responsibilities for activities authorized under subsection (a)(4), Technology Commercialization Centers, with activities authorized under Technology Enterprise Development Centers, as described in Section 545.240 of this Part. As authorized by the Department through an agreement, Technology Enterprise Development Centers may serve as Technology Commercialization Centers.

(Source: Amended at 30 Ill. Reg. 8450, effective April 19, 2006)

SUBPART F: HOMELAND SECURITY PROGRAM

Section 545.510 Purpose

In accordance with the general intent of Section 2001 of the Act [20 ILCS 700/2001] the Homeland Security Market Development Program is intended to support the development and/or application of homeland security-related products or services, conditioned upon these products or services addressing demonstrated needs in homeland security and/or defense.

(Source: Added at 30 Ill. Reg. 8450, effective April 19, 2006)

Section 545.520 Authorized Programs and Activities

The Homeland Security Market Development Program may be used for activities generally consistent with the intent of Section 2002 of the Act, such as *providing investments, loans, or grants to individual businesses, partnerships or joint ventures that provide or commercialize products or services that meet homeland security or defense needs. Further,* financial assistance *may be used to fund not-for-profit or educational institutions that make available resources and expertise that further homeland security* preparedness*, recovery, planning, or service delivery; support development of the technical or managerial skills for business owners and entrepreneurs; aid commercial ventures in locating financing product or service development; and help new companies or partnerships with product development.*

(Source: Added at 30 Ill. Reg. 8450, effective April 19, 2006)

Section 545.530 Eligible Applicants

The Department may provide an award of grant funds, make a loan to, or provide an investment in any entity, partnership, or joint venture located, or with substantial operations, in the State of Illinois. Financial assistance will be awarded based on the qualifications and expertise of the entity and the ability of the entity to demonstrate a sufficient need for its proposed project.

(Source: Added at 30 Ill. Reg. 8450, effective April 19, 2006)

Section 545.540 Eligible Costs

Grant, loan or investment funds may be used toward the development, production, or commercialization of any product or service with application in both homeland security and another commercial sector. Financial assistance may be used to hire technical staff, to engage third-party consultants and professional service providers, or for other uses as the Department deems appropriate in order to assist with homeland security product or service development, the support of programs that contribute to product or service development, or activities that accelerate commercial application of the product or service.

(Source: Added at 30 Ill. Reg. 8450, effective April 19, 2006)

Section 545.550 Ineligible Costs

Grant, loan or investment funds are not intended to finance long-term research projects. They are intended to accelerate the development and production of homeland security products. Funds may not be used for general or routine administrative purposes.

(Source: Added at 30 Ill. Reg. 8450, effective April 19, 2006)

Section 545.560 Reporting Requirements

Unless otherwise specified in the agreement between the Department and the recipient, an entity receiving financial assistance shall report financial and programmatic data to the Department on a regular basis using formats provided by the Department. Report formats and content shall be customized to the specific program and form of financial assistance. The Department requires quarterly reporting of expenditures and program achievements at a level of detail sufficient to provide for program accountability.

a) Expenditures – Unless otherwise specified in the agreement with the Department or an intermediary organization, an entity receiving financial assistance shall report actual expenditure of financial assistance using expenditure formats supplied by the Department. Expenditure summaries are to be submitted to the Department by the 15th day following the end of each fiscal quarter in which any expenditure of financial assistance is made. All award dollars must be expended within 24-months after receipt. Failure to do so may trigger the Department to initiate fund recovery activities.

b) Program Report – Unless otherwise specified in the agreement with the Department or an intermediary organization, an entity receiving financial assistance shall submit a program report in a format provided by the Department. The program report shall include a narrative describing the entity's progress toward achievement of objectives and activities as specified in the agreement with the Department or an intermediary organization. Program reports shall be submitted to the Department by the 15th day following the end of each fiscal quarter.

(Source: Added at 30 Ill. Reg. 8450, effective April 19, 2006)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Small Business Development Program

2) Code Citation: 14 Ill. Adm. Code 570

3)

Section Numbers:	Adopted Action:
570.10	Amend
570.20	Amend
570.30	Amend
570.40	Amend
570.50	Amend
570.60	Amend

5) Statutory Authority: Implementing and authorized by the Small Business Development Act [30 ILCS 750/Art. 9]

5) Effective Date of Rulemaking: April 19, 2006

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: 29 Ill. Reg. 20593; December 23, 2005

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? Yes

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

16) Summary and Purpose of Amendments: The purpose of this rulemaking is to implement the Rural Microbusiness Loan Program created by Public Act 94-392 within the Illinois Small Business Development Program, as required by the Act.

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:

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE C: ECONOMIC DEVELOPMENT
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY~~COMMUNITY AFFAIRS~~

PART 570
ILLINOIS SMALL BUSINESS DEVELOPMENT PROGRAM

Section
570.10 Purpose
570.15 Loan Terms (Renumbered)
570.20 Application Cycle
570.25 Application Documentation
570.30 Application Evaluation
570.40 Selection for Funding
570.50 Funding Limitations
570.60 Allowable Leverage
570.70 Administrative Requirements

AUTHORITY: Implementing and authorized by the Small Business Development Act [30 ILCS 750/Art. 9].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 14368, effective September 6, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 3266, effective January 28, 1986; amended at 10 Ill. Reg. 19724, effective November 6, 1986; amended at 13 Ill. Reg. 58, effective December 27, 1988; amended at 15 Ill. Reg. 9902, effective June 24, 1991; emergency amendment at 17 Ill. Reg. 21087, effective November 23, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 6119, effective April 11, 1994; emergency amendment at 29 Ill. Reg. 20665, effective December 12, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8461, effective April 19, 2006.

Section 570.10 Purpose

a) Direct Funding

1) Through the Illinois Small Business Development Program (Program), the Department of Commerce and Economic Opportunity~~Community Affairs~~ (Department) will provide term loans on a generally fixed-rate, low-interest basis (see Section 570.70(a)(1)) to small businesses in Illinois in cooperation with participating lenders or other investors. The ultimate purpose of the Program is to provide economic development assistance to

Illinois businesses who will provide employment opportunities for Illinois citizens, either through job creation/retention or those which modernize or improve the competitiveness of the firm.

2) Any small business operating or to be located in Illinois may make an application for financial assistance under this program. A small business includes, but is not limited to, any for-profit business organized as a sole proprietorship, partnership, corporation, joint venture, association, or cooperative. For the purposes of this program, a small business is one which has, including its affiliates, fewer~~less~~ than 500 full-time employees, or is determined by the Department not to be dominant in its field.

3) Minority, Women and Disability Business Loans

A) For purposes of this Part, a women owned business shall have the same definition as a female owned business under Section 2 of the Minority and Female Business Enterprise Act ~~(Ill. Rev. Stat. 1991, ch. 127, par. 132.602)~~[30 ILCS 575/2] and a minority owned business shall have the same definition as that contained in such Act. Included for purposes of this Part, Disadvantaged Business Enterprise (DBE)and Women's Business Enterprise (WBE) shall have the same definitions as those established under Section 5 of the Illinois Purchasing Act ~~(Ill. Rev. Stat. 1991, ch. 127, par. 132.5)~~ [30 ILCS 505/5] and Sections 3-101, 3-103, and 4-201.1 of the Illinois Highway Code ~~(Ill. Rev. Stat. 1991, ch. 121, pars. 3-101, 3-103 and 4-201.1)~~ [605 ILCS 5/3-101, 3-103 and 4-201.1].

B) For purposes of this Part, disability shall have the same definition as that used in Section 3 of the ~~"~~Americans with Disabilities Act of 1990~~"~~ (42 USC~~U.S.C.~~ 12102) and businesses owned by persons with disabilities shall mean businesses that are at least 51% owned by one or more persons with disabilities and whose management and daily business operations are controlled by one of the disabled owners.

4) Technical Assistance Grants – Provides the Department with the ability to make a grant to a not-for-profit organization, which also provides a portion of the financing with respect to the technical assistance project. The purpose of the grant is to cause the technical assistance project to be undertaken which has the potential to improve the capital marketplace

structure or to reduce information barriers that are impediments to the flow of capital.

5) Development Corporation Grant Program – The purpose of the Development Corporation Grant Program is to provide grants to or through financial intermediaries whose purpose includes financing, promoting or encouraging economic development in their geographic areas.

b) Indirect Funding

1) Participation Loan Program – Provides the Department with the ability to purchase an interest in a standard financial intermediary loan. This purchase provides a collateral cushion similar to companion loans. The purpose of these agreements is to help reduce the time needed to analyze applications due to the reliance upon the financial intermediaries' due diligence by tapping into the existing infrastructure of private sector financing expertise. The ultimate purpose of the Program is to provide economic development assistance to Illinois businesses~~business~~ that will provide employment opportunities for Illinois citizens. For purposes of this Part, financial intermediary shall have the same definition as those established under Section 9-2 of the Small Business Development Act (Act) [30 ILCS 750/9-2].

2) Loan Loss Reserve Program – The financial intermediaries which participate in the program make all of the credit decisions about whether to fund or reject a loan to a potential borrower. The financial intermediary also decides whether to make conventional loans to the borrower or whether to require the borrower to participate in the Loan Loss Reserve Program as a condition of the loan. The purpose of the program is to help borrowers which are borrowing up to $100,000 get access to capital, especially in urban areas; however, even though the program provides access to capital, it will not necessarily be low-cost capital.

3) Development Corporation Participation Loan Program – The purpose of the Development Corporation Participation Loan Program is to provide loans, which may be done through the purchase of participations, to or through financial intermediaries whose purposes include financing, promoting or encouraging economic development in their geographic areas.

4) Minority, Women, and Disability Participation Loans – Businesses meeting the definitions of Section 570.10(a)(3) may be funded in accordance with Section 9-4.2 of the Act through Participation Loans and Development Corporation Participation Loans as described in Sections 570.10(b)(1) and (3).

5) Rural Micro-business Loan Program

A) Authorizes the Department to provide loans to small rural businesses. Eligible participants include small rural businesses that:

i) employ 5 or fewer full-time employees, including the owner if the owner is an employee; and

ii) are based on the production, processing, or marketing of agricultural products, forest products, cottage and craft products, or tourism.

B) Eligible rural micro-businesses may be funded in accordance with Section 9-4.2a of the Act through Participation Loans and Development Corporation Participation Loans as described in subsections (b)(1) and (3).

(Source: Amended at 30 Ill. Reg. 8461, effective April 19, 2006)

Section 570.20 Application Cycle

a) Direct Funding

1) Applications under the Program other than the Technical Assistance Program and the Development Corporation Program will be accepted throughout the year until program funds are exhausted. The Department or its designee (e.g., Small Business Development Center (SBDC) staff, Illinois Department of Transportation) will supply interested businesses with an application package upon request.

2) Public notice of the availability of Technical Assistance Grant Program Applications and the application due date will be published in the State

recognized newspaper. Grant funds will be made available on an annual basis, if sufficient monies are allocated for the program. Application will be due on the deadline determined by the Department.

3) Public notice of the availability of Development Corporation Grant Applications and the application due date will be published in the State recognized newspaper. Grant funds will be made available on an annual basis, if sufficient monies are allocated for the program. Applications will be due on the deadline determined by the Department.

b) Indirect Funding

1) Applications under the Participation Loan Program and the Loan Loss Reserve Program will be accepted throughout the year until program funds are exhausted. The Department or a financial intermediary will supply interested businesses with an application package upon request.

2) Application for Development Corporation Participation loans to or through financial intermediaries will be accepted throughout the year until program funds are exhausted. The Department will supply interested financial intermediaries with an application package upon request.

3) Applications under the Rural Micro-business Participation Loan Program will be accepted throughout the year until appropriated or allocated program funds are exhausted The Department or a financial intermediary will supply interested businesses with an application package upon request.

(Source: Amended at 30 Ill. Reg. 8461, effective April 19, 2006)

Section 570.30 Application Evaluation

a) Direct Funding

1) Criteria for evaluating loan applications.
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 by Department staff. Applicants will be notified of deficiencies in applications and given an opportunity to correct such deficiencies through submission of additional

documentation (see Section 570.25(a)(1)). This review and evaluation process will be completed within 45 days of the Department's receipt of a complete application. 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 specified in Sections 9-2, 9-4, 9-4.2, and 9-6 of the Small Business Development Act ~~(Ill. Rev. Stat. 1991, ch. 127, pars. 2709-2, 2709-4, 2709-4.2, and 2709-6).~~ [30 ILCS 750/9-2, 9-4, 9-4.2, and 9-6]. The technical evaluation will address the following criteria:

i) Evidence of Need for Program Funding – The company must demonstrate the need for program funds in accordance with requirements of Section 9-4(c) of the Act, including evidence that the project's financing cannot be obtained without Department participation at an interest rate and term that~~which~~ makes the project viable; and the leverage of other funds in accordance with Sections 9-4(a) and (b) and 9-6(a) and (b) of the Act.

ii) Project Implementation Readiness – The company must demonstrate project readiness, including identifying loans and investments from all lenders and investors on letterhead, signed and dated; time schedule for project initiation; and written cost estimates from contractors, suppliers, and/or architects that~~which~~ support project costs.

iii) Employment Impact –

- The application shall provide evidence of: employment impact/opportunity (e.g., job creation/retention), including written assurance from the company which identifies a description of the type and the number of any jobs to be created/retained; and any evidence that such jobs will generate additional wealth for the community (e.g., final goods or services produced are sold in markets outside Illinois or final goods or services

produced and sold locally substitute for those imported from outside the state). Special consideration will be given to a Minority, Women and Disability Business Project or to a project which demonstrates additional need (e.g.: Distressed community or county with an unemployment rate which is 25% higher than the State average, or a per capita income that~~which~~ is less than the State average, or area with limited economic development as evidenced by absence of development activities within the last two years or as evidenced by new job growth rate less than the State or national average, or

- Funding would support business which has provided assurance that the project will generate business growth and make an employment impact/opportunity in the community as a result of spinoff businesses, and thus evidence that the additional jobs will be created or retained, or

- Funding is needed to avert loss of a major employment source (more than 100 jobs or 2% of the local base) in the community, or

- Jobs to be created or retained offer wages substantially higher than the prevailing wage in the industry as determined by the Illinois Department of Labor pursuant to the Prevailing Wage Act [820 ILCS 130], or an annual wage higher than the State's median income as computed by the Department's Division of Research and Analysis, 620 E. Adams Street, Springfield, Illinois 62701, (217) 785-6117).

iv) Evidence of how the Company will modernize or improve their competitiveness. The Company must demonstrate how they will accomplish the following:

- improve productivity;

- reverse an actual or expected decline in production; or

- improve the Company's competitive advantage.

B) Financial Evaluation Component – The applicant's financial statements, including the items in Section 570.25(a)(1)(C), (D), (G), (H), and (K), as applicable, 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 the "RMA Annual Statement Studies" (published by Robert Morris Associates, P.O. Box 8500, S-1140 Philadelphia, PA. 19178), or a comparable source (1990 with no later amendments or editions) if such industry is evaluated by this source. This standard credit analysis will determine the financial stability of the company in accordance with Section 9-4(f) of the Act.

2) The criteria for evaluating the Technical Assistance Grant Program shall be the following:

A) Evidence of Rationale for Program Funding – The company shall demonstrate, in accordance with Section 9-6(b) of the Act, that the project would not be undertaken unless the grant is provided along with the leverage of other funds in accordance with Section 9-6 of the Act and Section 570.60(a)(2).

B) Project Implementation Readiness – The company must demonstrate project readiness, including identifying sources of cash and in-kind matching funds and time schedule for project initiation.

C) Program Purpose – The degree to which the proposed project fulfills the program purpose.

D) Management – The management capacity of the applicant and its potential for completing the project.

E) Cost for Expected Results – The appropriateness of the project costs in terms of the project objectives, the work to be undertaken and the results expected.

3) The Criteria for Evaluating Development Corporation Grant Applications are the following:

A) Department staff will screen all applications to determine that all minimum requirements of the application package have been addressed. Application will be reviewed in accordance with Department review criteria listed in subsection (a)(1)(B).

B) A request for financial assistance to set up and operate a Development Corporation will be evaluated in accordance with the requirements of this Part. The review of applications will begin after the application due date and take no more than 75 working days, with financial assistance awards being announced at the end of that period. Applications will be evaluated on the basis of:

i) The extent of economic distress and unemployment in the area to be served; the nature of financial needs of the area and the geographic diversity of the applicants;

ii) The capability of the applicant and its staff as demonstrated by existing or past experience in managing work activities similar to those proposed to be undertaken;

iii) Time schedule for project initiation, etc., indicating the level of project readiness;

iv) Actual or anticipated amount of capitalization, extent of leveraging of other financial resource and consistency of proposed items of expenditure with the requirements of the Act;

v) The merits of the proposed work plan and consistency of proposed activities with the program purpose;

vi) The level of economic development results expected in terms of development financing, retooling or

modernization, jobs created or retained, private funds leveraged, etc. and level of other significant benefits or impacts;

vii) Evidence of direct linkages or coordination between the proposed program and private financial institutions and public investment/loan/guarantee programs; and

viii) The anticipated financial feasibility of the project and its ability to maintain continuous operation beneficial to the public as determined by anticipated operational costs of less than or equal to anticipated income or the availability of equity to cover any shortfalls based on the company's historical and projected financial statements.

b) Indirect Funding
The criteria for evaluating the Participation Loan Program, the Loan Loss Reserve Program and the Development Corporation Participation Loan Program shall be the following:

1) Technical Evaluation Component – Each application will be reviewed to assure compliance with technical program requirements as specified in Sections 9-2, 9-4, 9-4.2, 9-4.2a, and 9-6 of the Act [30 ILCS 750/9-2, 9-4, 9-4.2, 9-4.2a, and 9-6]. The technical evaluation will address the following criteria:

A) Evidence of Need for Program Funding – The company must demonstrate the need for program funds in accordance with requirements of Section 9-4(c) of the Act, including evidence that the project's financing cannot be obtained without Department participation at an interest rate and term which makes the project viable; and the leverage of other funds in accordance with Sections 9-4(a) and (b) and 9-6(a) and (b) of the Act.

B) Project Implementation Readiness – The company must demonstrate to the financial intermediary according to procedures and tests developed by the financial intermediary that it is ready to implement the project.

C) Employment Impact – The application shall provide evidence of:

employment impact/opportunity (e.g., job creation/retention), a description of the type and number of any jobs to be created/retained and any evidence that such jobs will generate additional wealth for the community (e.g., final goods or services proposed are sold in markets outside Illinois or final goods or services produced and sold locally substitute for those imported from outside the State). Special consideration will be given to a Minority, Women and Disability Business Project, a Rural Micro-business Project or to a project which demonstrates additional needs; for example:

i) Distressed community or county with an unemployment rate which is 25% higher than the State average, or a per capita income which is less than the State average, or

ii) Area with limited economic development as evidenced by absence of development activities within the last two years or as evidenced by new job growth rate less than the State or national average, or

iii) Funding would support business which has provided assurance that the project will generate business growth and make an employment impact/opportunity in the community as a result of spinoff businesses, and thus evidence that additional jobs will be created or retained, or

iv) Funding is needed to avert loss of a major employment source (more than 100 jobs or 2% of the local base) in the community, or

v) Jobs to be created or retained offer wages substantially higher than the prevailing wage in the industry as determined by the Illinois Department of Labor pursuant to the Prevailing Wage Act [820 ILCS 130] and Section 6-3 of the Illinois Purchasing Act [30 ILCS 505/6-3], or an annual wage higher than the State's median income as computed by the Department's Division of Research and Analysis, 620 E. Adams Street, Springfield, Illinois 62701, (217) 785-6117).

D) Evidence of how the company will modernize or improve their competitiveness – The company must demonstrate how they will accomplish the following:

i) improve productivity;

ii) reverse an actual or expected decline in production; or

iii) improve the company's competitive advantage.

2) Financial Evaluation Component – The financial intermediary will perform a credit analysis of the company using procedures and tests developed by the financial intermediary to determine the ability of the company to carry out the project.

(Source: Amended at 30 Ill. Reg. 8461, effective April 19, 2006)

Section 570.40 Selection for Funding

a) Direct Funding

1) For any Direct Loan application which meets the criteria of Section 570.30(a)(1), Department staff or designee will then conduct field visit evaluations to verify information in the application, leading to the final funding decision. The field visit will analyze the following:

A) an assessment of the project in terms of the employment impact/opportunity involved, in relation to the value of the funds requested and types of jobs preferred as described in Section 570.30(a)(1)(A)(iii);

B) an assessment of the project in terms of the modernization and improvement of competitiveness of the company, in relation to the value of the funds requested as described in Section 570.30(a)(1)(A)(iv);

C) a verification of submitted application information; and

D) past performance of the applicant under previous Departmental programs, if applicable (e.g., success in previous projects and the

level of compliance with previous agreements).

2) Applications that best meet the objectives of the programs and demonstrate the greatest potential for job creation/retention or those which modernize or improve the competitiveness of the firm will receive loan or grant funds, until all available funds are expended.

3) For any Technical Assistance Grant application which meets the criteria of Section 570.30(a)(2), Department staff will verify information in the application, leading to the final funding decision. The evaluation will analyze the following:

A) a verification of submitted application information; and

B) past performance of the applicant under previous Departmental programs, if applicable (e.g., success in previous projects and the level of compliance with previous agreements).

4) A request for financial assistance to organize a Development Corporation will be evaluated in accordance with the requirement of Section 570.30(a)(3). The review of applications will begin after the application due date and take no more than 75 working days, with financial assistance awards being announced at the end of that period.

b) Indirect Funding

1) For the Participation Loan Program Application, the financial intermediary staff will be responsible for the verification of the information in the application. The Department staff will evaluate the information submitted by the financial intermediary in order to determine that all requirements of the application package have been addressed.

2) For the Loan Loss Reserve Program Application, the financial intermediary staff will be responsible for the verification of the information in the application.

3) For the Development Corporation Participation Program, the financial intermediary staff will be responsible for the verification of the information in the application. The Department staff will evaluate the information submitted by the financial intermediary in order to determine

that all requirements of the application package have been addressed.

4) For the Rural Micro-businesses Participation Loan Program, in addition to the requirements of subsection (b)(1) or (3), the Department:

A) will determine the amount, term, interest rate, and allowable uses of each loan participation awarded; and

B) will allocate no less than 80% of the amount available for this program for loans to businesses that are located in counties with a population of 100,000 or less.

(Source: Amended at 30 Ill. Reg. 8461, effective April 19, 2006)

Section 570.50 Funding Limitations

a) Direct Funding

1) In accordance with Sections 9-4(b) and 9-4.2(b) of the Act, the Department shall finance no more than the lesser of 25% of the total project or $750,000 (50% of the project or $50,000 for Minority, Women and Disability Business Loans) unless the Director waives limitations governing the amount of the loan/grant and percentage of leverage when it is determined that these funding limitations would prohibit an otherwise approved project, in accordance with Sections 570.30(a) and 570.40(a), and the subsequent employment impact/opportunity, from occurring.

2) For the Technical Assistance Grant Program, the funding limitation will not exceed $25,000 unless a Director waiver is granted. The recipient of grant funds shall be required to provide a portion of the financing with respect to the project. The recipients' financing may be in the form of cash, in-kind services or any other form approved by the Department.

3) Department Financial Assistance to a Development Corporation in the form of a grant shall be limited to not more than $10,000, unless a Director waiver is granted.

b) Indirect Funding

1) For each loan in which the Department buys a participation under the

Participation Loan Program, the financial intermediary will be required to retain at least 50% of the amount of its loan. The Department's participation will not exceed 25% of the total amount of the project or $750,000. In accordance with subsection ~~Section 570.50~~(a)(1), the Director may waive limitation governing the amount of the loan and percentage of leverage when it is determined that these funding limitations would prohibit an otherwise approved project.

2) As to the amounts received by the ultimate recipients of funds, the Loan Loss Reserve Program funding limitations will be established by the financial intermediary staff involved.

3) Department Financial Assistance to or through a Development Corporation in the form of a participation shall not be made for more than 50% of the Development Corporation's loan and the Department's participation will not exceed 25% of the total amount of the project or $750,000 unless the Director waives limitations governing the amount of the loan and percentage of leverage when it is determined that these funding limitations would prohibit an otherwise approved project, in accordance with subsection ~~Section 570.50~~(a)(1).

4) Notwithstanding the provisions of subsections ~~570.50~~(b)(1) and (3), Minority, Women and Disability Participation Loans, in accordance with Section 9-4.2 of the Act, shall not exceed the lesser of $50,000 or 50% of the total amount of the project unless a Director waiver is granted.

5) Rural Micro-business Participation Loans, in accordance with Section 9-4.2a of the Act, shall not exceed the lesser of $25,000 or 50% of the total amount of the project, unless the Director determines that a waiver of these limits is required to meet the purposes of the Act and is in accordance with subsections (b)(1) and (3).

(Source: Amended at 30 Ill. Reg. 8461, effective April 19, 2006)

Section 570.60 Allowable Leverage

a) Direct Funding

1) In addition to the forms of allowable leverage defined in Sections 9-4(a) and 9-6(a) of the Act, allowable leverage will include such tangible assets

as:

A) under-utilized land and/or buildings which are a part of the project;

B) machinery and equipment brought into the state from another state;

C) cash equity provided by the principals~~principal(s)~~, stockholders, or other investors; and

D) funds expended by the business prior to the date of a loan or grant award; existing in-state equipment, land, buildings, furnishings, inventory (already owned and being utilized); lines of credit; post-project costs; and debt refinancing will not be considered as leverage.

2) For the Technical Assistance Grant Program, forms of allowable leverage are cash and in-kind services. In-kind services may include the following:

A) real or personal property;

B) services; or

C) any other form as designated by the Department.

3) For the Development Corporation Grant Program, the recipient of the grant funds shall be required to provide a portion of the financing with respect to the project. The recipient's financing shall be in the form of cash. Department funds must be matched 1:1 by cash from private sources. None of the matching funds shall have originated as a loan or a grant or other investment of local, State or federal government funding. Gifts, grants, loans, revolving loan funds, or stock purchases by local, State, or federal governments are encouraged but will not be considered in calculating Development Corporation match.

b) Indirect Funding

1) For the Participation Loan Program, the allowable leverage shall be in the form of a loan, letter of credit, guarantee, purchase or any other form approved by the Department, along with Section 570.60(a)(1).

2) For the Loan Reserve Program, the allowable leverage will be established by the financial intermediary staff involved.

3) For Development Corporation Participations, the allowable leverage shall be in the form of a loan, letter of credit, guarantee, bond purchase or any other form approved by the Department, along with Section 570.60(a)(1).

4) For the Rural Micro-business Participation Loan Program, the borrower shall provide equity capital in an amount equal to 10% of the first $10,000 of the required funds and equity capital, other loans, or leveraged capital, or any combination thereof, in an amount equal to 50% of any additional required funds.

(Source: Amended at 30 Ill. Reg. 8461, effective April 19, 2006)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision

2) Code Citation: 23 Ill. Adm. Code 1

3)

Section Numbers:	Adopted Action:
1.95	Amendment
1.440	Amendment
1.445	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6

5) Effective Date of Amendments: April 21, 2006

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: January 6, 2006; 30 Ill. Reg. 1

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version:

Section 1.440(b)(3) was corrected to refer to the requirement for students to take consumer education in "any of" grades 9-12 rather than in "each of" those grades.

Language was added to Section 1.440(c) to clarify that a student may repeat a course that he or she has successfully completed but may not receive double credit for that course toward meeting State graduation requirements.

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? No

15) Summary and Purpose of Amendments:

STATE BOARD OF EDUCATION

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This rulemaking encompasses two unrelated issues:

- a revision in the timeframe for the appeals process discussed in Section 1.95; and
- criteria by which high school courses may be considered "writing-intensive".

Appeals Process (Section 1.95)
Section 1.95 of the rules establishes the appeals process called for in Section 2-3.25m of the School Code, by which districts may seek review of their status level, recognition level, or corrective action. It has become clear that tying the deadline for submission of appeals to the date of notification could place districts in a position of having to determine whether to proceed with an appeal before most staff had returned from summer vacation. Under a September 1st deadline (if that date falls more than 30 days after the notification), districts will be able to confer with necessary staff before deciding whether to proceed with an appeal, and appeals can still be resolved as early in the school year as possible.

"Writing-Intensive" Courses (Section 1.440)
Public Act 94-676 changed the requirements for graduation so that students entering the 9th grade beginning with the 2006-07 school year must complete two years of "writing-intensive" courses. One of these courses must be an English course, while the other may be English but may also be a course in some other subject. Because of this new provision, districts need to know what sort of writing work must be included in a course in order for it to be considered "writing-intensive".

The adjective "intensive" implies that a significant amount of writing will be incorporated as part of students' work in a given course. However, establishing a minimum amount or percentage of class time that must be devoted to writing would be arbitrary, so the approach we have taken relies instead on the State Goals for Learning related to the English language arts and on the Illinois Learning Standards in that curricular area.

Therefore, in order for a course to count as "writing-intensive", both writing-related State Goals must be addressed and students' written work must be evaluated against all the standards relevant to those goals. Further, the feedback students receive from the evaluation of their work must be designed to help them improve in all the aspects of writing that correspond to expectations at the high school level. At least one of the writing-intensive courses completed by each student must be designed specifically to address the writing process and research skills.

The remaining changes in Section 1.440 are being made for purposes of clarification. This is a useful opportunity to revise the existing portions of this rule to separate the courses districts must offer in high schools from the courses students must take and the

courses and other requirements they must successfully complete in order to graduate. Section 1.445 merely needs to be revised so its cross-references to Section 1.440 will be correct; it is not being amended in any substantive way.

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

Dana Kinley
Curriculum and Instruction Division
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

(217) 557-7323

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 a: PUBLIC SCHOOL RECOGNITION

PART 1
PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section
1.10 Public School Accountability Framework
1.20 Operational Requirements
1.30 State Assessment
1.40 Adequate Yearly Progress
1.50 Calculation of Participation Rate
1.60 Subgroups of Students; Inclusion of Relevant Scores
1.70 Additional Indicators for Adequate Yearly Progress
1.75 Student Information System
1.80 Academic Early Warning and Watch Status
1.85 School and District Improvement Plans; Restructuring Plans
1.90 System of Rewards and Recognition − The Illinois Honor Roll
1.95 Appeals Procedure
1.100 Waiver and Modification of State Board Rules and School Code Mandates

SUBPART B: SCHOOL GOVERNANCE

Section
1.210 Powers and Duties (Repealed)
1.220 Duties of Superintendent (Repealed)
1.230 Board of Education and the School Code (Repealed)
1.240 Equal Opportunities for all Students
1.245 Waiver of School Fees
1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)
1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
1.270 Book and Material Selection (Repealed)
1.280 Discipline
1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

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Section
1.310 Administrative Responsibilities
1.320 Evaluation of Certified Staff in Contractual Continued Service
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SUBPART D: THE INSTRUCTIONAL PROGRAM

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1.410 Determination of the Instructional Program
1.420 Basic Standards
1.430 Additional Criteria for Elementary Schools
1.440 Additional Criteria for High Schools
1.445 Required Course Substitute
1.450 Special Programs
1.460 Credit Earned Through Proficiency Examinations
1.462 Uniform Annual Consumer Education Proficiency Test
1.465 Ethnic School Foreign Language Credit and Program Approval
1.470 Adult and Continuing Education
1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section
1.510 Transportation
1.515 Training of School Bus Driver Instructors
1.520 School Food Services (Repealed)
1.530 Health Services
1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

Section
1.610 Personnel Required to be Qualified
1.620 Accreditation of Staff (Repealed)
1.630 Noncertificated Personnel
1.640 Requirements for Different Certificates (Repealed)
1.650 Transcripts of Credits
1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section
1.705 Minimum Requirements for Teachers (Repealed)
1.710 Requirements for Elementary Teachers
1.720 Requirements for Teachers of Middle Grades
1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above through June 30, 2004
1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
1.740 Standards for Reading through June 30, 2004
1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
1.750 Standards for Media Services through June 30, 2004
1.755 Requirements for Library Information Specialists Beginning July 1, 2004
1.760 Standards for Pupil Personnel Services
1.762 Supervision of Speech-Language Pathology Assistants
1.770 Standards for Special Education Personnel
1.780 Standards for Teachers in Bilingual Education Programs
1.781 Requirements for Bilingual Education Teachers in Grades K-12
1.782 Requirements for Teachers of English as a Second Language in Grades K-12
1.790 Substitute Teacher

1.APPENDIX A Professional Staff Certification
1.APPENDIX B Certification Quick Reference Chart
1.APPENDIX C Glossary of Terms (Repealed)
1.APPENDIX D State Goals for Learning
1.APPENDIX E Evaluation Criteria – Student Performance and School Improvement Determination (Repealed)
1.APPENDIX F Criteria for Determination – Student Performance and School Improvement (Repealed)
1.APPENDIX G Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, and 27-23.3 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, and 2-3.6].

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006.

SUBPART A: RECOGNITION REQUIREMENTS

Section 1.95 Appeals Procedure

Pursuant to Section 2-3.25m of the School Code [105 ILCS 5/2-3.25m], a school district may request an appeal of a school's or the district's status level, recognition level determined pursuant to Section 2-3.25f of the School Code, or corrective actions undertaken by ISBE pursuant to Section 2-3.25f of the School Code or the No Child Left Behind Act of 2001. An appeal may not be brought pursuant to Section 2-3.25m challenging the validity of any State or federal law or requesting relief that ISBE is without authority to provide.

a) A district shall request such an appeal by sending a written request to the State Board of Education for consideration by the Appeals Advisory Committee. The district must submit its appeal within 30 days after receipt of notification from the State Board of the school's or district's status level, recognition level, or corrective action, or by September 1 of the calendar year in which the notification occurs, whichever occurs later. The appeal may not be based upon alleged inaccuracies in data in any State assessment other than the most recent State assessment, or any other cause known to the district during the prior year's period for appeals. Upon

receipt of a request, State Board staff shall provide an opportunity for the district to meet with State Board staff (either in person or over the telephone) in an effort to resolve the issues raised in the request through informal means.

b) If a district elects not to meet with State Board staff, or if the district wishes to proceed with the appeal upon conclusion of the informal resolution process, the State Board shall commence the appeals process set forth in this Section. The timeframes set forth for appeals shall be tolled during the pendency of the informal resolution process. Nothing contained in this Section shall preclude the State Board and the district from reaching agreement as to the resolution of an appeal at any time during the appeals process.

c) After a determination of a review schedule by the Committee, the State Board will give written notice of the date, time, and place of the hearing to the school district not less than 21 days before the hearing date. The notice shall be sent by certified mail, return receipt requested.

d) The school district may be represented by an attorney throughout the proceedings. The office of the General Counsel to the State Board will represent the State Board. Both the school district and the State Board will be afforded the opportunity to file written briefs before the hearing. The school district shall submit its brief to the following address: Illinois State Board of Education, Office of the General Counsel, 100 North First Street, Springfield, Illinois 62777-0001. The State Board shall submit its brief to the district and shall provide both the district's and the State Board's briefs to each member of the Committee.

1) The school district's brief shall be due 7 days after the district's receipt of the notice of opportunity for hearing.

2) The State Board's brief shall be due 14 days after the State Board's receipt of the district's brief or, if no brief is filed by the district, 14 days after the notice of opportunity for hearing is sent.

e) After briefs have been submitted pursuant to subsection (d) of this Section, no party shall submit additional information to the Committee unless so requested by the Committee's chairperson. The State Board will provide a signed assurance to the Committee that any calculations at issue were double-checked.

f) At the time its brief is filed, either the school district or the State Board may request an opportunity for oral argument before the Committee.

1) Each party will be given 30 minutes for argument, and the school district may reserve 10 of its 30 minutes for rebuttal. The Committee may ask questions during such argument.

2) If neither party requests oral argument, the Committee may request that the parties make an oral presentation on the date scheduled for the hearing.

g) If two or more districts request an appeal regarding the same question of policy, law, or fact, the State Board may consolidate those appeals if the agency determines that consolidation would secure economies of time and effort and promote uniformity of decision-making by the Committee. Consolidated appeals shall be handled as provided in this subsection (g).

1) Each district may submit its own brief, or any two or more of the districts whose appeals are consolidated may elect to write a joint brief.

2) All districts whose appeals are consolidated will be given 40 minutes for argument, and the districts may reserve ten of their 40 minutes for rebuttal. The districts shall either select one or more representatives to argue on behalf of the districts or divide the time equally amongst all districts.

3) The agency shall submit one brief in response to the question of policy, law, or fact subject to the consolidated appeal and shall have 30 minutes for argument.

h) The chairman of the Committee will conduct the review proceeding and hearing. During the hearing, the Committee shall consider only those issues raised in the briefs or by oral argument of the parties. All hearings will be recorded. A majority of committee members shall constitute a quorum. Committee recommendations must be approved by a majority vote of a quorum. Each committee member shall recuse himself or herself when hearing an appeal from a district with which the member has a conflict of interest, e.g., employment by the district, having a close family member in attendance at a school in the district or employed by the district, service as a school board member, or other affiliation with the district. The Committee may adopt other procedures for its governance not inconsistent with this Part.

i) Within 30 days after the hearing, the Committee shall submit a written recommendation for action to the State Superintendent of Education and shall state the reasons for its recommendation. All recommendations shall be based on an objective evaluation of the district's claims and a review of the State Board's

data and calculations. The Committee may recommend that the State Superintendent affirm or reverse the decision of the State Board, in whole or in part.

j) The State Superintendent shall thereafter make a recommendation for action to the State Board of Education. The State Board of Education shall make the final determination.

(Source: Amended at 30 Ill. Reg. 8480, effective April 21, 2006)

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section 1.440 Additional Criteria for High Schools

The School Code establishes differing requirements for the coursework that high schools must offer, the courses students must take, and the courses students must pass in order to graduate.

a) Course Offerings. Each~~The~~ district shall provide a comprehensive curriculum that includes at least~~including~~ the following ~~as a minimum program of~~ offerings. The time allotment, unless specified by the School Code or applicable rules~~regulations~~, is the option of the local school district.

1) Language Arts~~, three units~~

2) Science

3) Mathematics

4) History of the United States~~, one unit~~

5) Foreign Language

6) Music

7) Art

8) Career and Technical Education − Orientation and Preparation

9) Health Education~~, students must take one semester or equivalent, i.e., at least 18 weeks, during the secondary school experience.~~

10) Physical Education~~, daily except as provided in subsection (a)(9) of this Section and Section 1.445 of this Part (Section 27-6 of the School Code).~~

11) Consumer Education~~, nine weeks, 50 minutes a day or equivalent, grades 9-12, except for students who have demonstrated proficiency pursuant to the provisions of Section 27-12.1 of the School Code and Section 1.462 of this Part.~~

12) Conservation of Natural Resources ~~(Section 27-13.1 of the School Code).~~

13) Driver and Safety Education~~, 30 clock-hours of classroom instruction and 6 clock-hours of behind the wheel – grades 10, 11, and 12~~ (see Section 27-23 of the School Code [105 ILCS 5/27-23] and 23 Ill. Adm. Code 252)~~.~~

~~14) Vocational Education – Job Entry Skill Development~~

b) Required Participation

1) Each student shall be required to take one semester or the equivalent, i.e., at least 18 weeks, of health education during the secondary school experience.

2) Each student shall be required to take physical education daily, except as provided in Section 27-6 of the School Code and Section 1.445 of this Part.

3) Each student shall be required to take consumer education for 50 minutes per day for a period of nine weeks in any of grades 9-12, unless he or she has demonstrated proficiency pursuant to the provisions of Section 27-12.1 of the School Code [105 ILCS 5/27-12.1] and Section 1.462 of this Part.

4) Each student shall be required to take a course covering *American patriotism and the principles of representative government, as enunciated in the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois, and the proper use and display of the American flag for not less than one hour per week, or the equivalent.* (Sections 27-3 and 27-4 of the School Code [105 ILCS 5/27-3 and 27-4])

c) Specific ~~Minimum~~ Requirements for Graduation. A "unit" is the credit accrued

for a year's study or its equivalent. A student may be permitted to retake a course that he or she has already successfully completed (for example, to earn a better grade). However, credit may not be awarded more than once for completion of the same course, and the same course may not be counted more than once toward fulfillment of the State requirements for graduation.

1) Each student shall be required to have accrued at least 16 units in grades 9-12 if graduating from a four-year school or~~and~~ 12 units in grades 10-12 if graduating from a three-year high school. In either case, ~~2) In either of the above,~~ one unit shall be in American History or American History and Government. (Section 27-22 of the School Code)~~In a four-year high school, three units shall be in Language Arts and, in a three-year high school, two units shall be in Language Arts. In either instance emphasis shall be on reading and writing skills while one-half unit may be in oral communication.3) *American patriotism and the principles of representative government, as enunciated in the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois, and the proper use and display of the American flag, shall be taught in all public schools. Not less than one hour per week, or the equivalent, shall be devoted to advanced study of this subject.* (Sections 27-3 and 27-4 of the School Code [105 ILCS 5/27-3 and 27-4])~~ No student shall receive certification of graduation without passing a satisfactory examination on the subjects discussed in subsection (b)(4) of this Section~~ upon such subjects~~.

2)~~c)~~ Pursuant to Section 27-22 of the School Code~~[105 ILCS 5/27-22]~~, all students~~ who enter the 9th grade~~, except students with disabilities whose course of study is determined by an individualized education program, must successfully complete certain~~the following~~ courses, depending upon the school year in which they enter the 9th grade and subject to the exceptions provided in Section 1.445 of this Part, as a prerequisite to receiving a high school diploma~~ in addition to the applicable requirements of subsection (b) of this Section and any requirements imposed by the local school district~~.

~~1)*three years of language arts;*~~

~~2)*two years of mathematics, one of which may be related to computer technology;*~~

~~3)*one year of science;*~~

~~4)*two years of social studies, of which at least one year must be history of the United States or a combination of history of the United States and American government; and*~~

~~5)*one year chosen from:*~~

~~A)*music,*~~

~~B)*art,*~~

~~C)*foreign language, which shall include American Sign Language, or*~~

~~D)*vocational education.*~~

d) School districts shall have on file in the local district office a description of all course offerings that may comply with the requirements of the law. A course will be accepted as meeting the relevant requirement for graduation if ~~requirements set forth in subsection (c) of this Section, provided that~~ its description shows that its principal instructional activity is the development and application of knowledge and skills related to the applicable requirement.

1) The course description for a "writing-intensive" course will be accepted for purposes of Section 27-22 of the School Code if:

A) a goal of the course is to use the writing that students do relative to the subject matter being presented as a vehicle for improving their writing skills;

B) writing assignments will be an integral part of the course's content across the time span covered by the course;

C) the written products students are required to prepare in order to receive credit for the course and the feedback students receive are such that:

i) students' writing proficiency is evaluated against expectations that are appropriate to early or late high school and encompass all of the standards applicable to State Goals 3 and 5 (see the State Goals for Learning and the Illinois Learning Standards in Appendix D to this Part); and

ii) students receive information from the evaluation of their written products that will permit them to improve their writing skills in terms of correct usage; well-organized composition; communication of ideas for a variety of purposes; and locating, organizing, evaluating, and using information.

2) The writing-intensive study provided in at least one writing-intensive course must be designed to address and integrate the elements of the writing process and to refine or apply research skills.

e) It is the responsibility of the school district's administration to provide parents and guardians timely and periodic information concerning graduation requirements for all students, particularly in cases where a student's eligibility for graduation may be in question.

f) Additional requirements for graduation may be adopted by local boards of education. Boards of education may accept courses completed in a community college toward graduation.

(Source: Amended at 30 Ill. Reg. 8480, effective April 21, 2006)

Section 1.445 Required Course Substitute

a) Pursuant to Section 27-22.05 of the School Code [105 ILCS 5/27-22.05], school boards in districts with any of the grades 9 through 12 may adopt a policy providing for a course substitution of a vocational and technical course for a high school or graduation requirement~~ specified in Section 1.440(a)(10) and (g) of this Part~~. Such policies must provide a complete description of both the vocational and technical course and its relationship to the required course that will be replaced by the substituted course. Courses that may be substituted must meet the requirements set forth in Section 27-22.05 of the School Code and Section 1.440(d)~~1.440(h)~~ of this Part.

b) No student under the age of 18 shall be enrolled in a course substitution unless that student's *parent or guardian first requests the substitution and approves it in writing on forms that the school district makes available* for such requests. Such requests shall be maintained in the student's temporary record in accordance with Section 4 of the Illinois School Student Records Act [105 ILCS 10/4].

(Source: Amended at 30 Ill. Reg. 8480, effective April 21, 2006)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Parts: Certification

2) Code Citation: 23 Ill. Adm. Code 25

3)

Section Numbers:	Adopted Action:
25.100	Amendment
25.115	Amendment
25.125	Amendment
25.127	Amendment
25.142	New Section
25.145	Amendment
25.147	Amendment
25.155	Amendment
25.160	Amendment
25.165	Amendment
25.225	Amendment
25.444	Amendment
25.490	Amendment
25.710	Amendment
25.720	Amendment
25.APPENDIX E	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6, 14C-8, and Art. 21

5) Effective Date of Amendments: April 21, 2006

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

7) Does this rulemaking contain incorporations by reference? Incorporations by reference under Section 5-75 of the Illinois Administrative Procedure Act are found in existing text of Sections 25.115(b) and 25.147(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: January 6, 2006; 30 Ill. Reg. 16

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version:

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section 25.115 was amplified to discuss when electronic submission of materials might be permitted or required, as well as to clarify when the timing of an institution's review might be altered in response to unforeseen circumstances.

Material in Section 25.127(j) was reformatted for technical reasons.

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? No

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

15) Summary and Purpose of Amendments: This rulemaking covers several different topics, although the bulk of the material relates to the system for accrediting educational units in institutions that prepare educators and approving their respective preparation programs. The goal of these changes is to identify places in these processes where duplication of effort or reporting could be eliminated, particularly in light of our general reliance on the standards and processes of the National Council for the Accreditation of Teacher Education (NCATE).

Section 25.127 is being revised with respect to the content of program reports, and that review called to our attention a need to state explicitly what the minimum assessment-related requirements are for individual programs. Section 25.142 has been added to provide those statements. A need was also identified to provide for situations in which an institution accredited by NCATE experiences the revocation of national accreditation for one of its programs. Probation at the State level is provided for, so that an approved program can continue serving its existing candidates while seeking to improve its status. This parallels NCATE's treatment of this issue.

Another significant change is that the group of accrediting entities upon which ISBE and the Certification Board will rely for program reviews is being expanded to include specialized accrediting organizations (SAOs). Examples of these organizations include CACREP (the Council on Accreditation of Counseling and Related Educational Programs) and ASHA (the American Speech-Language-Hearing Association). These entities provide national accreditation to programs in both NCATE and non-NCATE institutions. Review by these organizations will help eliminate the need for panels to be convened at the state level and will reduce the agency's work while still relying upon entities conversant with standards. In some instances, in fact, the Illinois standards were derived from those of the relevant SAO.

Other Sections in Subpart C of the rules are being revised for purposes of technical updating and/or conformance with NCATE's procedures.

Availability of Endorsements
Section 25.100 and Appendix E are being revised to permit out-of-state applicants to receive endorsements in specific fields within the sciences and social sciences. Preparation programs in other states often do not match the broader approach taken to these fields within the applicable Illinois standards, and this has resulted in inability to certify certain out-of-state teachers. Several revisions have also been made in Section 25.100 at this time to eliminate obsolete provisions.

Master Certificates
The amendments to Sections 25.225 and 25.444 respond to Public Act 94-105, which made master certificates available to school counselors and also made those individuals eligible for payments under the Illinois Teaching Excellence Program. Some of the detailed reporting requirements in Section 25.444 have been streamlined to be less burdensome on the individuals who are eligible for payment. Subsection (f) of this rule has been reversed so that, in cases where the appropriation is inadequate to cover all eligible expenses, individuals who perform the specified services will be paid in preference to those who would receive only the annual stipend.

Other
Several additional portions of the rules are being revised for differing purposes.

* Section 25.490 has been updated and made more concise as part of the comprehensive review of these rules.

* Section 25.710 has been updated to reflect the addition of a content test specifically for early childhood special education.

* Section 25.720 is revised with respect to the acceptance of a passing score on a language proficiency test. Because the transitional bilingual (Type 29) certificate can be used for as long as eight years, many individuals will not earn other "full" certificates within five years after receiving the Type 29. When a person in this situation eventually does receive a full certificate, he or she will need to be able to add the bilingual education credential to it. We agreed that these teachers should not be required to retake the language proficiency test at that time.

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

Linda Jamali

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

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:

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 25
CERTIFICATION

SUBPART A: DEFINITIONS

Section
25.10 Definition of Terms Used in This Part (Repealed)

SUBPART B: CERTIFICATES

Section
25.11 New Certificates (February 15, 2000)
25.15 Standards for Certain Certificates (Repealed)
25.20 Requirements for the Elementary Certificate (Repealed)
25.22 Requirements for the Elementary Certificate (2004) (Repealed)
25.25 Requirements for "Full" Certification
25.30 Requirements for the Secondary Certificate (Repealed)
25.32 Requirements for the Secondary Certificate (2004) (Repealed)
25.35 Acquisition of Subsequent Certificates; Removal of Deficiencies (Repealed)
25.37 Acquisition of Subsequent Teaching Certificates (2004)
25.40 Requirements for the Special Certificate (Repealed)
25.42 Requirements for the Special Certificate (2004) (Repealed)
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 (Repealed)
25.82 Requirements for the Early Childhood Certificate (2004) (Repealed)
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

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 (Repealed)
25.100 Endorsing Teaching Certificates (2004)
25.105 Temporary Substitute Teaching Permit

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 Requirements for Educational Unit Assessment Systems
25.142 Assessment Requirements for Individual Programs
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

Section
25.200 Relationship Among Credentials in Subpart D

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

25.210 Requirements for the Certification of School Social Workers (Repealed)
25.215 Certification of School Social Workers (2004)
25.220 Requirements for the Certification of Guidance Personnel (Repealed)
25.225 Certification of School Counselors (2004)
25.227 Interim Certification of School Counselor Interns (2004)
25.230 Requirements for the Certification of School Psychologists (Repealed)
25.235 Certification of School Psychologists (2004)
25.240 Standard for School Nurse Endorsement (Repealed)
25.245 Certification of School Nurses (2004)
25.252 Certification of Non-Teaching Speech-Language Pathologists
25.255 Interim Certification of Speech-Language Pathologist Interns

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF ADMINISTRATIVE AND SUPERVISORY STAFF

Section
25.300 Relationship Among Credentials in Subpart E
25.310 Definitions (Repealed)
25.311 Administrative Certificate (Repealed)
25.313 Alternative Route to Administrative Certification
25.315 Renewal of Administrative Certificate
25.320 Application for Approval of Program (Repealed)
25.322 General Supervisory Endorsement (Repealed)
25.330 Standards and Guide for Approved Programs (Repealed)
25.333 General Administrative Endorsement (Repealed)
25.335 General Administrative Endorsement (2004)
25.344 Chief School Business Official Endorsement (Repealed)
25.345 Chief School Business Official (2004)
25.355 Superintendent Endorsement (Repealed)
25.360 Superintendent (2004)
25.365 Director of Special Education

SUBPART F: GENERAL PROVISIONS

Section
25.400 Registration of Certificates; Fees
25.405 Military Service
25.410 Revoked Certificates
25.415 Credit in Junior College (Repealed)
25.420 Psychology Accepted as Professional Education (Repealed)
25.425 Individuals Prepared in Out-of-State Institutions

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

25.427 Three-Year Limitation
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 OTHER NONCERTIFIED PERSONNEL

Section
25.510 Paraprofessionals; Teacher Aides
25.520 Other Noncertificated Personnel
25.530 Specialized Instruction by Noncertificated Personnel
25.540 Approved Teacher Aide Programs
25.550 Approval of Educational Interpreters

SUBPART H: CLINICAL EXPERIENCES

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

SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section
25.705 Purpose – Severability
25.710 Definitions
25.715 Test Validation
25.717 Test Equivalence
25.720 Applicability of Testing Requirement and Scores
25.725 Applicability of Scores (Repealed)
25.728 Use of Test Results by Institutions of Higher Education
25.730 Registration
25.732 Late Registration
25.733 Emergency Registration
25.735 Frequency and Location of Examination
25.740 Accommodation of Persons with Special Needs
25.745 Special Test Dates
25.750 Conditions of Testing
25.755 Voiding of Scores
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SUBPART J: RENEWAL OF STANDARD AND MASTER CERTIFICATES

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25.815 Submission and Review of the Plan (Repealed)
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
25.848 General Responsibilities of LPDCs
25.850 General Responsibilities of Regional Superintendents
25.855 Approval of Illinois Providers
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25.865 Awarding of Credit for Activities with Providers

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 THE STANDARD TEACHING CERTIFICATE

Section
25.900 Applicability of Requirements in this Subpart
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
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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, 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; peremptory amendment at 24 Ill. Reg. 16109, effective October 12, 2000; peremptory amendment suspended at 25 Ill. Reg. 3718, effective February 21, 2001; peremptory 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; amended at 29 Ill. Reg. 12374, effective July 28, 2005; emergency amendment at 29 Ill. Reg. 14547, effective September 16, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 15831, effective October 3, 2005; amended at 30 Ill. Reg. 1835, effective January 26, 2006; amended at 30 Ill. Reg. 2766, effective February 21, 2006; amended at 30 Ill. Reg. 8494, effective April 21, 2006.

SUBPART B: CERTIFICATES

Section 25.100 Endorsing Teaching Certificates (2004)

Beginning July 1, 2004, the structure of endorsements available on Illinois certificates was~~will be~~ changed. Appendix E to this Part provides a list of the available 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) Endorsements 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), (k), and (m) of this Section:

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 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 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, except that applications received through June 30, 2006, for endorsements in reading and library information shall be reviewed on this basis. 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. 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), (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

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 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. The requirements of subsections (h)(1) through (h)(4) of this Section relate to endorsements and designations based on the standards found at 23 Ill. Adm. Code 27.140 through 27.260, while the requirements of subsection (h)(5) make subject-specific credentials available to out-of-state applicants whose preparation has been structured to address individual disciplines within the sciences or 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:

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; and

iii) in the case of the sciences, the coursework completed must have included both biological and physical science.

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.

5) An out-of-state applicant who is eligible to receive an Illinois teaching certificate may receive an endorsement limited to a specific discipline among the social sciences (e.g., history) or the sciences (e.g., biology), provided that he or she presents evidence of having completed a major in that discipline.

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 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, 2006, 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.

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 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).

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, except that Section 1.720 shall be read in conjunction with this Section with respect to reading and library information specialist 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 30 Ill. Reg. 8494, effective April 21, 2006)

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 professional educators, that institution must be recognized, and the educational unit responsible for such programs~~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 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,~~ Electronic transmission of written materials required pursuant to this Subpart C may be authorized or required by the State Superintendent of Education when this method may be more cost effective or feasible~~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 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. The State Superintendent shall alter the timing of an institution's review at the institution's request if the Superintendent determines that the request is based on unforeseen circumstances that were beyond the institution's control and were demonstrably related to the institution's ability to prepare for the review.

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 programsprogram(s), updates any information previously provided as needed, and provides institutional data that describe the results of unit and program assessments and the actions taken or planned to address areas identified for improvementother information requested by the State Superintendent of Education; and

2) as relevant to the institution, a report on all programs provided by the institution that have been approved as an alternativealternate 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 standardsstandard(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 25.125(j)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.

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

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 during the academic year for the mutual convenience of the affected institution and the review team.

a) No later than one~~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) that is applicable. However, ~~in the case of~~an institution that is also seeking initial accreditation from NCATE~~,~~ will need to comply with NCATE's submission timelines as well~~these reports shall be submitted six months earlier than otherwise required by this subsection (a)~~.

1) For its first review in light of the standards incorporated by Section 25.115(b) of this Part, the~~The~~ institution shall submit a report providing an overview of the unit's conceptual frameworks~~frameworks(s)~~, which shall include a description of each framework and~~,~~ its development~~, and any changes that have been made since the institution's previous Accreditation Review~~. The discussion of the frameworks~~framework(s)~~ shall address each of the "structural elements" found in the standards referred to in Section 25.115(b) of this Part. For each subsequent review, the institution shall describe any changes in the conceptual frameworks that have been made since the institution's previous Accreditation Review.

2) If at least 80 percent of an institution's teacher preparation program completers have passed the applicable form of the assessment of professional teaching (APT) in each of the preceding three years, the institution shall be deemed to be adequately addressing the Standards for All Illinois Teachers set forth at 23 Ill. Adm. Code 24. For any form of the APT for which this criterion has not been met, the~~The~~ institution shall submit a composite report covering all programs for whose candidates that form is required~~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)~~. This report shall describe how those preparation programs address those standards.

3) If at least 80 percent of an institution's administrative certification program completers have passed the applicable content-area examinations for administrative certification in each of the preceding three years, the institution shall be deemed to be adequately addressing the Illinois Professional School Leader Standards (see 23 Ill. Adm. Code 29.100). For any administrative certification program for which this criterion has not been met, the institution shall submit a report describing how the program addresses these standards.

b) A panel established by the State Superintendent shall review the overview of the unit's conceptual frameworks~~framework(s)~~ no more than 60~~30~~ days after the overview is submitted. No later than 30 days after the panel completes its review, and if the institution is to be reviewed under subsection (d)(1) of this Section, the State Board of Education shall notify the institution either that the description of its conceptual frameworks~~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.

c) No later than 60 days before its review visit, the institution shall submit either to the State Superintendent the number of copies specified in light of the review team's size~~,~~ or~~and~~ to NCATE ~~(if applicable)~~the number of copies required by NCATE, with two copies to the State Superintendent, of an institutional~~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 frameworks~~framework(s)~~; and

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 consulting, ex officio member~~consultant~~ to ensure that applicable standards, procedures, rules, and statutes are addressed.

2) Institutions Also Seeking to Achieve or Retain NCATE Accreditation
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 consulting, ex officio member~~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 frameworks~~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 shall review the institution's suggested revisions and make appropriate corrections in consultation with the ex officio consultant~~State Board staff member~~ who is serving pursuant to subsection (d) of this Section. The final report shall be

submitted to the State Superintendent of Education by the team's chair or by NCATE, as applicable, ~~institution~~ within 30 days after the chair's~~State Board's~~ receipt of the institution's suggested corrections. The State Superintendent shall provide the final report to the institution within ten business days after receiving it.

g) Within 30 days after receipt of the final report, the institution shall submit to the State Superintendent and to NCATE, if applicable, 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 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, ~~and~~the results of the review of the program reports~~report(s)~~, ~~as well as~~ any other relevant documentation that was available to the review team, and the decision of NCATE's Unit Accreditation Board (UAB), if applicable.

i) After consideration of the information submitted pursuant to subsection (h) of this Section, the State Teacher 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 State Teacher 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 programs~~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 programs~~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 unmet standards~~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 standards~~standard(s)~~ and any additional areas~~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 standards~~standard(s)~~ and any additional areas~~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 or the NCATE Board of Examiners, as applicable, and trained in the review process. The provisions of subsection (d)(2) of this Section shall also apply. The team conducting a focused visit shall forward to the State Teacher Certification Board a report indicating whether the conditions expressed have been satisfied.

i) Within 30 days after receipt of this report, the institution shall submit either a rejoinder to the team's findings that meets the requirements of subsection (g) of this Section or a letter acknowledging receipt of the report.

ii) Staff of the State Board of Education shall convey to the State Teacher Certification Board the review team's report, the institution's letter of agreement or rejoinder, a response to that rejoinder provided by the team's chair, any other relevant documentation that was available to the review team, and the decision of NCATE's Unit Accreditation Board, if applicable.

E) After reviewing the materials submitted pursuant to subsection (j)(2)(D) of this Section~~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 (meaning, for an NCATE institution, if national accreditation has been revoked), the State Teacher Certification Board shall recommend that the State Board of Education assign accreditation of the educational unit with probation. An institution 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.) Conversely, an institution may choose to become disaffiliated with NCATE so that its next Accreditation Review will be conducted under subsection (d)(1) of this Section, provided that the institution notifies the State Superintendent of Education of this intention no later than 18 months prior to the scheduled date of the review visit. The State Superintendent may make an exception to the 18-month timeframe upon determining that circumstances beyond the control of an institution prevented its meeting the deadline for this notification.

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.~~

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

Section 25.127 Review of Individual Programs

a) No later than one~~February 1 (for a spring review) or September 15 (for a fall review) of the~~ year before ~~the year when~~ its Accreditation Review will be held, the institution shall submit a~~five copies of either a full or an interim~~ report for each of its programs, including any alternative program established pursuant to Section 21-5b, 21-5c, or 21-5d of the School Code. These reports shall be submitted in quantity and format required by either ~~to~~ the State Superintendent or ~~to~~ NCATE, as provided in subsection (c)~~(e)~~ of this Section, and shall include all the following information.

1) A description of the program's alignment with the unit's conceptual framework.

2) A description of the criteria for admission to, retention in, and exit from the program, including the required grade point average and minimum grade requirements for the college or university and how the key assessments used in the program are derived from or informed by the unit's assessment system (see Section 25.140 of this Part).

3) Data on candidates enrolled in the program and candidates completing the program, beginning with the most recent academic year for which numbers have been tabulated and including three years' information if available. If a program is offered at more than one level (i.e., baccalaureate, post-baccalaureate, or graduate, or as an alternative program), data shall be reported separately for each of these arrangements.

4) Identification of the faculty members with primary responsibility for preparing professional educators in the program and their qualifications for their positions.

5) A description of the course of study, including required courses, State standards addressed, and related field experiences or clinical practice as applicable to specified courses.

6) A description of the required field experiences and clinical practice, including criteria, measures taken to ensure placements in diverse settings and with diverse students, and the program's requirements for faculty supervision of these experiences.

7) A description of the key assessments that are required of candidates in the program under Section 25.142 of this Part, including:

A) the specific standards addressed by each assessment that is used to comply with the requirements of Section 25.142(a)(1)-(4) or Section 25.142(b)(1)-(4), as applicable;

B) a summary of findings based on data from all the assessments described under subsection (a)(7)(A) of this Section, from the applicable content-area test identified in Section 25.710 of this Part, and from the Assessment of Professional Teaching, if applicable; and

C) a discussion of how the assessment data demonstrate candidates' mastery of the identified standards.

8) A description of information related to two or three additional assessments that address relevant standards, if inclusion of this information is desired by the unit offering the program.

~~1) A full report is due for a program if:~~

~~A) a report for the program has never been reviewed before as part of the State program approval process;~~

~~B) the program was not reviewed by a content-area review panel in the course of the institution's immediately preceding Accreditation Review;~~

~~C) the program's content has been altered or changes have been made in the way in which the program addresses the relevant content-area standards established by the State Board of Education;~~

~~D) the data reported by the institution on its recent institutional report cards required pursuant to Title II of the Higher Education Act~~

~~reveal declining levels of performance by the institution's candidates; or~~

~~E) the content standards for the program have been changed and the change was effective no fewer than 18 months prior to the date for the Accreditation Review.~~

~~2) An interim report is due for a program if the program was found to meet the applicable standards as part of the institution's most recent Accreditation Review.~~

~~b) Each full program report shall be submitted in a format prescribed by the State Board of Education and shall contain:~~

~~1) an overview of the knowledge base, philosophy of preparation, and goals and objectives of the program and a description of how they relate to the conceptual framework(s) of the educational unit;~~

~~2) a description of the course of study, including field experiences, student teaching, and internships for candidates;~~

~~3) a description of how the program meets either:~~

~~A) the applicable content-area standards established by the State Board of Education, or~~

~~B) the national standards applied by the relevant specialty professional association, if the report is to be reviewed by such an association pursuant to subsection (d) of this Section;~~

~~4) a description of the assessment system used to evaluate candidates in relation to applicable standards at the time of entry into the program, prior to beginning field experience, at the conclusion of student teaching, and upon program completion, as well as a summary of assessment results that includes all the following that are available and an explanation of any element not available:~~

~~A) candidates' results on the certification tests required pursuant to this Part,~~

~~B) data on the performance of program completers in the first year of~~

~~teaching practice,~~

~~C) results of assessments of candidates' student teaching or internships, and~~

~~D) any other data that support the institution's analysis of its candidates' teaching knowledge, skill, and performance;~~

~~5) the program's faculty and its organizational location within the professional education unit; and~~

~~6) the number of program completers over the most recent three years.~~

~~c) Each interim report shall be submitted in a format prescribed by the State Board of Education and shall contain:~~

~~1) a description of substantive changes, evaluations, and improvements in the program since the institution's most recent Accreditation Review;~~

~~2) a description of how each area for improvement identified in the most recent program review has been addressed; and~~

~~3) data on the performance of candidates and graduates of the program, summarized and cross-referenced to the applicable standards.~~

b~~d~~) The State Board of Education shall recognize "Specialized Professional Associations" ("SPAs") that are affiliated with NCATE and specialized accrediting organizations ("SAOs") that are recognized by either the U.S. Department of Education or the Council for Higher Education Accreditation for purposes of program review in accordance with the provisions of this subsection (b)~~(d)~~.

1) Each program conducted by an Illinois institution that is accredited by NCATE will be reviewed by a panel convened under the auspices of the relevant SPA or SAO if one ~~such a SPA~~ exists ~~and is recognized by the State Board of Education (see subsection (l) of this Section)~~.

2) In an Illinois institution not accredited by NCATE, each program that is accredited by an SAO will be reviewed by that SAO.

3) The State Board of Education shall review the content-area standards of

each SPA and each SAO and determine the degree to which those standards are aligned with the comparable standards established by the State Board. The State Board shall identify any applicable Illinois content-area standards that are not addressed by the standards applied by the relevant SPA or SAO and shall require supplementary evidence from the institution regarding these standards (see subsection (e)~~(f)~~ of this Section).

4~~3~~) Each program not subject to review by an SPA or SAO ~~Any other certification program conducted by an institution accredited by NCATE, any addendum to a program report submitted pursuant to subsection (f) of this Section, and each program conducted by an institution not accredited by NCATE~~ will be reviewed by a panel convened by the State Superintendent of Education. The members of each panel shall be chosen from a pool of individuals with expertise in the respective content area and shall have been trained in the program review process.

c~~e~~) The State Board of Education shall notify each institution no later than two years prior to its scheduled Accreditation Review as to which of its program reports are to be submitted to the State Superintendent and which, if any, are to be directed to NCATE or to an SAO. The State Board of Education will not include in its review of an institution's programs any new program that is approved for operation after the date for submission of the institution's program reports.

d~~f~~) Each institution shall submit the reports required pursuant to this Section to NCATE if they are to be reviewed by SPAs and to the State Superintendent of Education if they are to be reviewed by a panel convened by the Superintendent.

e~~g~~) As part of the notification provided under subsection (c)~~(e)~~ of this Section, the State Board shall identify for each affected institution any applicable Illinois content-area standards that are not addressed by the standards applied by the relevant SPA or SAO. For each affected program, the institution shall submit to the State Superintendent a concurrent addendum to the program report, which shall be submitted in a format prescribed by the State Board and, by means of two exemplars of activities or assessments, shall describe how the program meets the State standards in question.

f~~h~~) No later than 30 days after the State Superintendent or NCATE receives a program report, the responsible staff shall notify the affected institution as to whether the report is complete. An institution may provide additional material to complete a program report within 30 days after receiving a notification to the

effect that it is incomplete.

g~~i~~) No later than six months prior to the scheduled date of the review visit~~June 15 (for a spring visit) or February 1 (for a fall visit)~~, each review panel shall submit a ~~preliminary~~ critique for each program reviewed, either to NCATE or to the State Superintendent of Education, as applicable. Each ~~preliminary~~ critique shall indicate the recognition status that should be assigned to the program (see subsection (j) of this Section) and include ~~any standards the panel believes are not met by a particular program and shall provide~~ the panel's rationale for that determination. Each ~~preliminary~~ critique shall be forwarded to the affected institution within ten business days after its receipt~~no later than June 30 or February 15, as applicable~~.

~~j) No later than September 15 or April 15, as applicable, an institution may submit evidence that its program meets the applicable standards, in the form of a response to a panel's preliminary critique. Each response shall be submitted either to NCATE or to the State Superintendent, as applicable, and shall be forwarded to the responsible panel no later than September 30 or April 30, as applicable.~~

~~k) No later than January 15 or September 1, as applicable, each panel shall complete its reconsideration of each affected program and submit a final critique, either to NCATE or to the State Superintendent, as applicable.~~

h~~l~~) NCATE and the State Superintendent shall ensure that each ~~final~~ critique is received by the affected institution no later than 60 days prior to the scheduled date of the institution's review visit.

i~~m~~) Each institution whose programs have been reviewed by an~~a~~ SPA or SAO shall provide or make available to the State Superintendent~~Board~~ of Education all reports sent by the institution to the SPA or SAO and by the SPA or SAO to the institution. The State Superintendent~~Board~~ shall keep this information as part of the institution's permanent file.

~~n) An institution may notify the State Superintendent if it does not receive required materials from NCATE or a SPA within the timelines set forth in this Section. The State Board of Education shall withdraw its recognition of any SPA that has failed to comply with the timelines set forth in this Section in more than 20 percent of the reviews it has conducted and fails to supply the State Superintendent with evidence that it has sufficient resources available to resume meeting applicable deadlines in time for the next program review cycle.~~

j~~e~~) As part of the accreditation process described in Section 25.125 of this Part, the State Teacher Certification Board shall convey to the State Board of Education a recommendation regarding each preparation program offered by the affected educational unit.

1) In making these recommendations, the State Teacher Certification Board shall accept the decision made by the relevant SPA or SAO, if any, regarding the national recognition of each program, unless the staff review of the report on additional standards required under subsection (e) of this Section indicates that certain State standards are not being addressed. A program's nonrecognition by an SPA or SAO shall be treated as discussed in subsection (j)(2) of this Section.

A~~1~~) The State Teacher Certification Board may recommend approval of programs that meet the applicable content standards; or

B~~2~~) The Certification Board may recommend provisional approval of programs whose program reports are found to exhibit less than full compliance with the applicable content standards. No later than 18 months after provisional approval of a program is granted by the State Board of Education, the institution shall submit to the State Superintendent, or to the relevant SPA or SAO, if applicable, a revised program report that shall be reviewed as provided in this Section. Staff of the State Board of Education shall convey to the State Teacher Certification Board the report of the review panel. After consideration of this report, the State Teacher Certification Board shall convey its recommendation that the State Board of Education:

i) Continue the approval of the affected program, thereby authorizing the institution to continue offering it; or

ii) Revoke the program's approval, thereby prohibiting the institution from continuing to offer it.

2) If a program's national recognition is denied or discontinued after review by a relevant SPA or SAO, the State Teacher Certification Board may recommend an 18-month period of probation for the program, during which no new candidates shall be enrolled. While the program is on probation, the institution may submit to the SPA or SAO either a revised program report addressing the unmet standards or a complete, new

program report. At the conclusion of the probationary period, the State Teacher Certification Board may:

A) Recommend continuing approval of the program, if national recognition is granted or restored by the relevant SPA; or

B) Recommend revocation of the program's approval, if national recognition is denied by the relevant SPA. ~~If provisional approval is granted, staff of the State Board of Education may monitor the program's improvement as deemed necessary until submission of the report called for in subsection (p) of this Section and shall report any significant lack of progress to the State Teacher Certification Board, which may recommend that the State Board of Education require an accelerated submission date for that report.~~

~~p)~~ ~~No later than 18 months after provisional approval of a program is granted by the State Board of Education, the institution shall submit to the State Superintendent a revised program report, which shall be reviewed as provided in this Section. Staff of the State Board of Education shall thereupon convey to the State Teacher Certification Board the report of the review panel. After consideration of this report, the Certification Board shall convey its recommendation that the State Board of Education:~~

~~1)~~ ~~Continue the approval of the affected program, thereby authorizing the institution to continue offering it; or~~

~~2)~~ ~~Revoke the program's approval, thereby prohibiting the institution from continuing to offer it.~~

k~~q~~) Actions following upon the recommendation of the State Teacher Certification Board shall be as described in Section 25.160 of this Part. Discontinuation of a program pursuant to revocation of its approval shall be subject to the requirements of Section 25.165(b) of this Part.

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

Section 25.142 Assessment Requirements for Individual Programs

a) Teacher Preparation Programs
Subject to the provisions of Section 25.720 of this Part, the applicable Assessment of Professional Teaching and the applicable content-area test are key assessments

for candidates in teacher preparation programs. Beyond these assessments, each program shall require all candidates to complete at least the following additional key assessments:

1) An additional content assessment focused on program standards;

2) An assessment of candidates' ability to plan instruction;

3) An assessment of clinical practice; and

4) An assessment of candidates' impact on students' learning.

b) Programs for Administrators and School Service Personnel
Subject to the provisions of Section 25.720 of this Part, the applicable content-area test is a key assessment for candidates in programs that prepare administrators and school service personnel. Beyond this assessment, each program shall require all candidates to complete at least the following additional key assessments:

1) An additional content assessment focused on program standards;

2) An assessment of candidates' ability to plan an appropriate environment;

3) An assessment of clinical practice; and

4) An assessment of candidates' impact on providing a supportive environment for students' learning.

(Source: Added at 30 Ill. Reg. 8494, effective April 21, 2006)

Section 25.145 Approval of New Programs Within Recognized Institutions

The procedures set forth in this Section shall apply to the initial approval of additional teacher preparation programs established by institutions that are already recognized, as well as to the approval of programs proposed by consortia. A consortium is a partnership involving two or more teacher education institutions with accredited educational units, or one or more such institutions and one or more not-for-profit organizations in the State which support excellence in teaching and/or one or more school districts. Each consortium shall designate from among its members a recognized institution of higher education whose schedule for Accreditation Reviews shall apply to the consortium's programs also.

a) The institution shall submit to the State Superintendent of Education ~~five copies of~~ a program report meeting the requirements of Section 25.127(a)~~25.127(b)(1) through (b)(5)~~ of this Part, showing how each proposed program meets the applicable professional education and content-area standards established by the State Board of Education.

b) ~~A panel established by the State Superintendent shall review the program report. The panel shall include at least one individual with expertise in the respective content area.1)~~No later than 30 days after the State Superintendent receives a program report, staff shall notify the affected institution as to whether the report is complete and identify any required component not adequately addressed.~~2)~~ An institution may provide additional material to complete a program report within 30 days after receiving a notification to the effect that it is incomplete.

~~3) The review panel shall notify the affected institution of any applicable standards not addressed in its program report, as well as any deficiencies which, if not improved, will be identified as areas of weakness in the panel's report.~~

~~4) The affected institution may submit additional documentation or revisions to a program report that may include descriptions of changes in the program made in response to the preliminary critique provided by the panel pursuant to subsection (b)(3) of this Section.~~

~~5) he review panel shall submit to the affected institution and to the State Superintendent a report describing the degree to which the program meets the applicable professional education and content-area standards established by the State Board of Education and recommending action with respect to the proposed program.~~

c) At the institution's request, staff~~Staff~~ of the State Board of Education shall convey the report to the State Teacher Certification Board~~ the report and recommendations resulting from the review of the program report~~.

d) After consideration of the report~~information and recommendations~~, the State Teacher Certification Board shall convey to the State Superintendent its recommendation that the State Board of Education:

1) Provisionally approve the proposed new teacher education programs~~program(s)~~, thereby authorizing the educational unit to conduct the programs~~program(s)~~ and to recommend candidates for certification by

entitlement until the time of the institution's next scheduled Accreditation Review; or

2) Deny approval of the proposed programs~~program(s)~~, thereby prohibiting the conduct of the affected programs~~program(s)~~.

e) Actions following upon the recommendation of the State Teacher Certification Board shall be as described in Section 25.160 of this Part.

f) When a unit submits a proposal for an alternative program under any of Sections 21-5b, 21-5c, and 21-5d of the School Code [105 ILCS 5/21-5b, 21-5c, and 21-5d], that proposal shall not be considered a new program subject to this Section. The review of such a proposal shall be as delineated in Section 25.65, 25.67, or 25.313 of this Part, as applicable.

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

Section 25.147 Approval of Programs for Foreign Language Beginning July 1, 2003

a) Beginning July 1, 2003, approval of programs for foreign language shall no longer be specific to individual languages. That is, as of that date, an institution with an approved program in any language shall be considered as having approval for any combination of languages, subject to the provisions of this Section.

1) An institution with an approved foreign language program may add one or more languages to that program at the discretion of the educational unit, provided that the institution shall notify the State Superintendent of Education to this effect in writing no later than three months before instruction in that language is to begin, except when notification is required further in advance under subsection (a)(2) of this Section. The State Superintendent shall provide this information to the State Teacher Certification Board at the next available meeting of the State Teacher Certification Board.

2) An institution that intends to add one or more languages to its approved program for which no examination is listed in Section 25.710 of this Part shall notify the State Superintendent of Education no later than six months before instruction in that language is to begin, in order to allow time for the identification of an appropriate language proficiency examination if needed.

3) An institution that intends to delete one or more languages from its approved foreign language program shall be subject to the requirements of Section 25.165(a) of this Part.

4) An institution without an approved program in foreign language may apply for approval of a new program under Section 25.145 of this Part. Such an application shall indicate which languages~~language(s)~~ the program will initially offer. After initial approval of the program, the institution may add or delete languages as provided in this Section.

b) Each foreign language program shall, as a requirement for program completion on or after July 1, 2004, require its candidates for certification, other than candidates in Latin and Classical Greek, to complete the Oral Proficiency Interview described in "ACTFL Proficiency Guidelines – Speaking" (1999), published by the American Council on the Teaching of Foreign Languages (ACTFL), 6 Executive Plaza, Yonkers, NY 10701 (no later amendments to or editions of these standards are incorporated by this Section) and to attain a score at the "intermediate high" level. As an alternative to the ACTFL interview, a program may administer another measure of oral proficiency, provided that approval for that measure is first obtained from the State Board of Education based on evidence that it permits identification of proficiency equivalent to the "intermediate high" level on the ACTFL interview.

c) Pursuant to the standards set forth in 23 Ill. Adm. Code 27.340 (Foreign Language), beginning July 1, 2003, each approved preparation program in foreign language shall lead to candidates' eligibility for a special K-12 certificate. Beginning July 1, 2004, each individual completing an Illinois approved program shall be required to take and pass the assessment of professional teaching relevant to the special certificate. However, passage of the APT relevant to the secondary certificate prior to July 1, 2004, will be accepted for issuance of a special K-12 certificate. The provisions of Section 25.720~~25.725~~ of this Part shall apply to each individual already certified in Illinois who seeks an additional certificate in order to teach a foreign language.

d) Beginning October 1, 2003, out-of-state applicants certified at the K-12 level shall be required to take and pass the assessment of professional teaching relevant to the special certificate. Beginning October 1, 2003, out-of-state applicants certified at the secondary level may take and pass either the APT relevant to the secondary certificate or the APT relevant to the special certificate and, if eligible, shall receive the applicable certificate. The validity of secondary certification in the language to be taught may be extended to the elementary level pursuant to

Section 25.85(a)(2) of this Part.

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

Section 25.155 Initial Recognition Procedures

The procedures set forth in this Section shall apply to initial recognition of an institution and the concurrent accreditation of the educational unit and approval of one or more teacher preparation programs within that institution.

a) An institution may notify the State Board of Education of its desire to initiate the initial recognition, accreditation, and program approval process by submitting a letter of intent to the State Superintendent of Education on a form provided by the State Board. Within 30 days after receipt of such a notification, the State Superintendent shall respond to the institution, identifying the staff member who will be responsible for assisting the institution and inviting the institution to submit its required materials to that individual.

b) The institution shall submit to the State Superintendent of Education, in the quantity and format specified by the State Superintendent, ~~ten copies of~~ a report containing:

1) information indicating that the institution meets the conditions described in Section 25.115(a) of this Part;

2) a written description of the educational unit, including:

A) identification of the unit, its mission, purposes, or goals, its authority and responsibilities for professional education, and its coordination of the institution's various teacher preparation programs;

B) identification of the dean, chair, or director who is officially designated to represent the educational unit and is assigned the authority and responsibility for its overall administration and operation;

C) the written policies and procedures which guide the operations of the educational unit;

D) the unit's policies for monitoring and evaluating its operations, the

quality of its offerings, performance of candidates, and effectiveness of its graduates; and

E) the unit's published criteria for admission to and exit from all initial and advanced preparation programs for professional educators, and provision for summary reports of candidate performance at exit; and

3) a complete description of the unit's conceptual frameworksframework(s) and its/their development, which shall address each of the "structural elements" of conceptual frameworks found in the standards referred to in Section 25.115(b) of this Part.

c) Review of conceptual frameworks for institutions seeking initial recognition shall be conducted at leasttwice annually, during a time period announced by the State Superintendent of Education, by a panel convened by the State Superintendent of Education. Each review shall encompass all materials postmarked no later than 60 days prior to the date of the review. Each spring review shall encompass all material postmarked by February 1. Each fall review shall encompass all material postmarked by September 1. 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 frameworksframework(s) is adequate or that certain structural elements were not adequately addressed.

d) If the description of the conceptual frameworksframework(s) is not found to be adequate, no further review of the institution shall occur unless the institution submits a revised conceptual framework. If the description of the conceptual frameworksframework(s) is found to be adequate, a review visit shall be scheduled no later than the conclusion ofbetween March 1 and May 31 of the following year (for institutions whose conceptual frameworks were reviewed in the spring) or between September 1 and November 30 of the following academic year(for institutions whose conceptual frameworks were reviewed in the fall) and shall be scheduled for the mutual convenience of the affected institution and the review panel.

e) With regard to each program for which approval is sought, the institution shall submit to the State Superintendent of Education five copies of a program report meeting the requirements of Section 25.127(a)25.127(b) of this Part. An institution shall submit its program reports no later than oneFebruary 1 (for a spring review) or September 1 (for a fall review) of the year prior to the projected date of itsbefore the year in which it anticipates being ready for institutional

review pursuant to subsection (h) of this Section.

f) A panel established by the State Superintendent shall review the program report of each proposed program. The members of each panel shall be chosen from a pool of individuals with expertise in the respective content area.

1) No later than 30 days after the State Superintendent receives a program report, staff shall notify the affected institution as to whether the report is complete pursuant to Section 25.127(a)~~25.127(b)~~ of this Part.

2) An institution may provide additional material to complete a program report within 30 days after receiving a notification to the effect that a report is incomplete.

3) No later than six months prior to the scheduled date of the visit~~August 1 (before a spring visit) or February 1 (before a fall visit)~~, the review panel shall notify the affected institution of any applicable standards not addressed in its program report, as well as any deficiencies which, if not improved, will be identified ~~as areas of weakness~~ in the panel's critique as areas for improvement.

4) Within 60 days after receiving the panel's notification under subsection (f)(3) of this Section~~No later than October 1 (before a spring visit) or April 1 (before a fall visit)~~, the affected institution may submit revisions to a program report that may include descriptions of changes in the program made in response to the ~~preliminary~~ critique provided by the panel ~~pursuant to subsection (f)(3) of this Section~~.

5) No later than 60 days before the scheduled date of the review visit referred to in this Section, each program review panel shall submit to the affected institution and to the State Superintendent a final critique describing the degree to which the program meets the applicable content standards established by the State Board of Education and recommending action with respect to the proposed program.

g) The institution shall submit to the State Superintendent ~~ten copies of~~ an institutional report incorporating an overview of the institution, an overview of the unit's conceptual frameworks~~framework(s)~~, and evidence that it is meeting each of the standards referred to in Section 25.115(b) of this Part. This report shall be submitted in a format and quantity prescribed by the State Superintendent~~Board~~ of Education.

h) The State Superintendent of Education shall authorize the scheduling of an on-site review visit to the institution when:

1) its conceptual framework is found to be adequate;

2) the institution has submitted the narrative required under subsection (g) of this Section; and

3) a panel has reviewed each~~the~~ program report~~reports~~ submitted by the institution as required by subsection (f) of this Section and has determined that each ~~such~~ report meets the applicable content standards established by the State Board of Education.

i) From a pool of individuals who have been trained in the applicable standards and procedures, the State Superintendent shall empanel a team to conduct an on-site review to verify the information provided by the institution as required by subsection (g) of this Section. A staff member of the State Board of Education shall accompany the team, serving as a consulting, ex officio member~~serve as a consultant~~ to ensure that applicable standards, procedures, rules, and statutes are addressed. The review team shall conduct the review visit, prepare its draft and final reports, and submit its final report as provided in Section 25.125(e) and (f) of this Part.

j) 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 meeting the requirements of Section 25.125(g) of this Part.

k) Staff of the State Board of Education shall convey to the State Teacher Certification Board the review team's report, the institution's letter of agreement or rejoinder, ~~and~~ a response to that rejoinder provided by the team's chair, and any other relevant documentation that was available to the review team.

l) The State Teacher Certification Board, after reviewing all the relevant materials, shall convey its recommendation to the State Superintendent that the State Board of Education:

1) Recognize the institution, accredit the educational unit, and approve one or more proposed teacher education programs, thereby authorizing the educational unit to conduct the approved programs~~program(s)~~ and to

recommend candidates for certification by entitlement; or

2) Recognize the institution, provisionally accredit the educational unit, and approve one or more proposed teacher education programs, thereby authorizing the educational unit to conduct the approved programs~~program(s)~~ and recommend candidates for certification by entitlement (subject to the requirements of Section 25.125(j)(2) of this Part); or

3) Deny recognition of the institution, accreditation of the affected educational unit, or approval of one or more teacher education programs, thereby prohibiting the conduct of the proposed programs~~program(s)~~.

m) Actions following upon the recommendation of the State Teacher Certification Board shall be as described in Section 25.160 of this Part.

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

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(j)(1)~~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 State Teacher Certification Board's recommendation.~~, provided that the~~ The institution's narrative explanation of its objections shall conform to the requirements for rejoinders stated in Section 25.125(g) of this Part but may also be based upon an objection to the State Teacher Certification Board's review; this narrative~~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.

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 objections~~objection(s)~~ and shall inform the State Teacher Certification Board that these materials have been submitted 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 30 Ill. Reg. 8494, effective April 21, 2006)

Section 25.165 Discontinuation of Programs

a) An institution that intends to discontinue an approved program or cease offering preparation programs altogether shall so notify the State Superintendent of Education no later than 30 days prior to taking such action, except that voluntary discontinuation of a program shall also be subject to the following additional requirements:

1) The institution shall assure the State Superintendent that all candidates currently enrolled in any program scheduled for discontinuation will have an opportunity to complete the program.

2) The institution shall supply to the State Superintendent the names and Social Security numbers of all candidates currently enrolled in any program scheduled for discontinuation.

b) When approval of a program is revoked, the State Board of Education may require its continued operation for one additional academic year to permit

currently enrolled candidates either to complete the program or to seek enrollment in another institution for that purpose. However, if the State Board determines in consultation with the State Teacher Certification Board that the program is unable to offer candidates learning opportunities that contribute to their teaching competence, the Board shall require that the program cease operating at the end of the then-current semester. The institution shall supply to the State Superintendent the names and Social Security numbers of all candidates currently enrolled in any program whose approval is revoked.

c) A program in which no candidates have been enrolled for a consecutive three-year period shall be considered to have been discontinued. An institution desiring to resume offering such a program shall be required to comply with the requirements for initial approval stated in Section 25.145 of this Part.

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

SUBPART D: SCHOOL SERVICE PERSONNEL

Section 25.225 Certification of School Counselors (2004)

An individual who qualifies for an Illinois master school service personnel certificate in school counseling under Section 21-25(d) of the School Code shall not be subject to the requirements of this Section.

a) Each applicant for the school service personnel certificate endorsed for school counseling shall hold a master's degree awarded by a regionally accredited institution of higher education in school counseling, another counseling or related field (e.g., social work or psychology), or an educational field. (See subsection (h) of this Section.)

b) Each applicant shall have completed an Illinois program approved for the preparation of school counselors pursuant to Subpart C of this Part 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 a supervised counseling practicum of at least 100 clock hours that provided interaction with individuals and groups of school age and included at least 40 hours of direct service work. Except as provided in subsection (e) of this Section, each applicant shall have completed a structured and supervised internship that is part of an approved program.

1) The internship shall be of a length that is determined by the approved program to be adequate to enable candidates to meet the standards set forth at 23 Ill. Adm. Code 23.110 but shall entail at least 600 hours and last no less than one semester, during which the candidate shall engage in the performance of various aspects of the counseling role and shall be gradually introduced to the full range of responsibilities associated with that role. However, the internship for an individual with at least two years of teaching experience may, at the discretion of the institution offering the approved program, consist of no fewer than 400 hours. In each case at least 240 hours of the internship shall involve direct service work with individuals and groups of school age.

2) The internship shall occur in a school setting except that, at the discretion of the institution, a maximum of one-third of the hours required may be credited for experiences in other related settings such as hospitals or day care settings that, in the judgment of the institution, expose the candidate to the needs of school-aged children and prepare the candidate to function as a school counselor.

3) An institution may recommend certification of a candidate who was enrolled in an approved program prior to July 1, 2004, and has completed an internship meeting the requirements applicable at the time of his or her enrollment.

d) Except as provided in subsections (e) and (f) of this Section, each applicant shall either:

1) hold or be qualified to hold a teaching certificate; or

2) have completed, as part of an approved program, coursework addressing:

A) the structure, organization and operation of the educational system, with emphasis on P-12 schools;

B) the growth and development of children and youth, and their implications for counseling in schools;

C) the diversity of Illinois students and the laws and programs that have been designed to meet their unique needs; and

D) effective management of the classroom and the learning process.

e) An applicant who holds another state's certification in school counseling shall not be subject to the requirements of subsection (c) or subsection (d) of this Section if he or she presents evidence of at least two years' full-time experience as a school counselor.

f) An applicant who has completed an approved school counseling program in another state that includes an internship meeting the requirements of subsection (c) of this Section shall not be subject to the requirements of subsection (d) of this Section.

g) 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 of this Part. (See also 23 Ill. Adm. Code 23.110.)

h) An applicant who holds a master's degree in any field other than school counseling, or who holds a bachelor's degree only, shall be required to complete the equivalent of all requirements of an approved school counseling preparation program. The Illinois institution offering the program shall review the individual's educational and experiential background and identify any of the standards set forth at 23 Ill. Adm. Code 23.110 or other applicable requirements of this Section that the individual's preparation has not addressed. Upon successful completion of the coursework and experiences offered by the institution that address the identified standards, the applicant shall be eligible to be recommended for certification by entitlement.

i) 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 30 Ill. Reg. 8494, effective April 21, 2006)

SUBPART F: GENERAL PROVISIONS

Section 25.444 Illinois Teaching Excellence Program

The annual payments and incentives established under Section 21-27 of the School Code [105 ILCS 5/21-27] shall be subject to the requirements of this Section and shall be contingent upon the appropriation of sufficient funds (see subsection (f) of this Section). For purposes of this Section, "outside the regular school term" means during hours when school is not in session or on days when school is not in session.

a) An individual who holds an Illinois master certificate pursuant to Section 21-2(d) or Section 21-25(d) of the School Code [105 ILCS 5/21-25(d)] shall be eligible for an annual payment as called for in Section 21-27(1) of the School Code for each year during which:

1) he or she is employed by a school district or other public entity providing early childhood, elementary, or secondary education, including special education, in a position whose functions are specifically authorized by a teaching certificate and include the provision of instruction to students or a school counseling position; and

2) he or she works for no less than the equivalent of half the school year, as verified by the employer at or near the conclusion of the school year using a format~~form~~ specified by the State Board of Education.

b) In addition to the payment received pursuant to subsection (a) of this Section, an individual who holds an Illinois master certificate pursuant to Section 21-2(d) of the School Code shall be eligible for an annual incentive payment under Section 21-27(2) of the School Code for each year during which:

1) he or she is employed by a school district or other public entity providing early childhood, elementary, or secondary education, including special education, in a position whose functions are specifically authorized by a teaching certificate and include the provision of instruction to students;

2) he or she works for no less than the equivalent of half the school year, as verified by the employer at or near the conclusion of the school year using a format~~form~~ specified by the State Board of Education; and

3) *he or she agrees in writing,* using a format~~form~~ prescribed by the State Board of Education, *to provide~~, outside the regular school term,~~ at least 60 hours of mentoring to classroom teachers that* conforms to the requirements of Section 21-27(2) of the School Code and *consists of:*

A) *high-quality professional development for new and experienced teachers; and/or*

B) a*ssistance to candidates for certification by the National Board for Professional Teaching Standards in completing that certification process.* (Section 21-27(2) of the School Code)

c) Requirements for Professional Development and Assistance to NBPTS Candidates

1) As verification of his or her eligibility for the applicable incentive payment, the holder of the master certificate who provides professional development to new or experienced teachers under subsection (b) of this Section shall submit a written log of the assistance provided, ~~to each recipient~~ using a format specified~~on a form supplied~~ by the State Board of Education, demonstrating that he or she addressed one or more of the ~~areas of teaching practice enumerated in this subsection (c)(1), consistent with the~~ standards set forth in 23 Ill. Adm. Code 24 (Standards for All Illinois Teachers) ~~and~~ as relevant to the classroom-based needs of the recipient teachers.~~teacher(s):~~ Each recipient of professional development shall be identified by name and shall sign the log as verification of the dates and hours of service indicated.

~~A) kowledge of content and pedagogy;~~

~~B) assessment of students' learning and provision of timely and effective feedback to them;~~

~~C) classroom management strategies;~~

~~D) development of instructional goals;~~

~~E) design and delivery of instruction;~~

~~F) reflection on and analysis of recipient teachers' practice and their success in assisting students to reach instructional goals.~~

2) As verification of his or her eligibility for the applicable incentive payment, the holder of the master certificate who assists others in preparing for certification by the National Board for Professional Teaching Standards under subsection (b) of this Section shall submit a written log of the assistance provided~~to each recipient~~, using a format specified ~~on a form supplied~~ by the State Board of Education. This record shall identify the activities performed ~~from among those listed as allowable by the State Board~~ and verify that these activities addressed~~based upon their relationship to~~ specific requirements candidates must meet for NBPTS certification.

d) In addition to the payment received pursuant to subsection (a) of this Section, an individual who holds an Illinois master certificate pursuant to Section 21-2(d) of the School Code shall be eligible for an annual incentive payment under Section 21-27(3) of the School Code for each year during which:

1) he or she is employed by a school district or other public entity providing early childhood, elementary, or secondary education, including special education, in a position whose functions are specifically authorized by a teaching certificate and include the provision of instruction to students;

2) he or she works for no less than the equivalent of half the school year, as verified by the employer at or near the conclusion of the school year using a format~~form~~ specified by the State Board of Education; and

3) *he or she agrees in writing*, using a format~~form~~ prescribed by the State Board of Education, *to provide, outside the regular school term, at least 60 hours of mentoring to classroom teachers in schools on the Academic Early Warning List or in schools in which* 50% *or more of the students receive free or reduced-price lunches, or both.* (Section 21-27(3) of the School Code)

e) Requirements for Mentoring

1) Mentoring provided in accordance with subsection (d) of this Section shall be conducted either:

A) as part of and in conformance with a mentoring program formally established by a school district; or

B) under the terms of a written agreement among the mentor teacher, the building administrator, mentor coordinator, or other responsible official of the school district employing one or more recipient teachers, and those recipients, that describes the goals of the mentoring, the duration of the mentor teacher's involvement, and the amount of time expected to be devoted to each recipient teacher.

2) Mentoring may be provided to recipients either individually or in groups, provided that the mentor must address one or more of the areas of teaching practice enumerated in subsection (c)(1) of this Section as relevant to the classroom-based needs of each recipient teacher.

3) An individual who provides mentoring under subsection (d) of this Section shall notify his or her employing district (if different from that of the recipient teacher or teachers) to this effect and, as verification of his or her eligibility for the applicable incentive payment, shall submit to the State Board of Education a written log that:

A) meets the requirements of subsection (c)(1) of this Section; and

B) discusses how the mentoring was related to the academic needs of the recipient teachers' students.

f) Insufficient Appropriations
When the funding available in any fiscal year is inadequate to cover all the payments described in this Section, payments will be prioritized.

1) No~~All~~ annual stipends as described in subsection (a) of this Section shall be paid until all~~before any~~ other payments pursuant to subsections (b) and (d) of this Section have been~~are~~ made.

2) The incentive payments described in subsection (d) of this Section shall take precedence over those described in subsection (b) of this Section.

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

Section 25.490 Rules for Certification of Persons Who Have Been Convicted of a Crime

a) Applicants shall complete their applications truthfully and honestly. Each application shall~~case must~~ be reviewed separately. The gravity~~type~~ of the offense (misdemeanor, felony or other infamous nature), the circumstances surrounding its commission (including age and background of the applicant at the time of the offense), and any criminal penalty that was imposed shall be considered. An applicant with a criminal history shall be provided an opportunity to provide evidence of good character and/or rehabilitation to prove that he or she has overcome a defect in his or her record~~involved will affect the character decision; obviously some offenses (and felonies) are of a more serious nature than others~~.

b) The State Teacher Certification Board will review evidence provided by the applicant and render a decision as to good character by weighing the evidence of bad character (the criminal conviction) against that of good character and rehabilitation. In making this determination, the State Teacher Certification

Board may consider, without limitation, a personal statement from the applicant and letters from university instructors, employers, and any other persons with knowledge of the applicant's criminal history and rehabilitation.~~The purpose of criminal penalties must be considered. It is the overwhelming view of experts in the various professions of the law that the purpose of criminal penalties is not only to punish, but to rehabilitate the individual. To automatically deny a person a privilege enjoyed by others is to tell that person that he will never be looked upon as being rehabilitated and that the stigma of his/her offense will forever be attached to him to prevent him from becoming an accepted and useful member of society. Such a drastic decision should not be taken lightly. It certainly should never be an automatic decision which does not give a person the opportunity to prove that he has overcome a defect in his/her past record.~~

c) The~~Therefore, in handling applications where there has been a criminal conviction on the part of the applicant, the~~ State Teacher Certification Board shall require a waiting period of one year from the time the sentence for the criminal offense ends before an application for certification will be considered, excluding minor traffic offenses.~~will:~~

~~1) not automatically reject an applicant with a criminal conviction record;~~

~~2) take into consideration the gravity of the offense, i.e. misdemeanor, felony, infamous crime together with the circumstances under which it occurred, i.e. background and age of the person at the time of the offense;~~

~~3) allow the applicant to provide evidence of good character and rehabilitation;~~

~~4) render a decision as to good character by weighing the evidence of bad character (the criminal conviction) against that of good character and rehabilitation; and~~

~~5) require a waiting period of one year from the time the sentence for the criminal offense ends before an application for certification will be considered.~~

d) For purposes of this Section, a~~an individual's~~ "sentence" shall include any probationary period imposed either alone or in combination with a period of incarceration.

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

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SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

Section 25.710 Definitions

For the purposes of this Subpart, the following definitions apply:

"Passing raw score" is the minimum number of multiple choice items that must be answered correctly on a given test or the combination of required correct responses to multiple choice items and required numerical value of constructed responses.

"Passing score" is the minimum scaled score a person must obtain in order to pass a test.

"Re-scoring" means the process of reviewing an examinee's answers and the scores assigned to them to confirm that a test score reported to an examinee is the score earned by him or her.

"Retake" is the opportunity for a person who has taken a test of the Illinois Certification Testing System at one test administration to take the test in the same area as given at subsequent administrations.

"Scaled score" is the person's test score after the mathematical transformation of the number of test items the person answered correctly to a scale of numbers on which the minimum score, the maximum score, and the passing score are set. Through May 31, 2006, for the tests of subject matter knowledge and language proficiency, the minimum scaled score is 0, the maximum score 100, and passing score 70. Beginning in June 2006, for the tests of subject matter knowledge (content-area tests) and language proficiency, the minimum scaled score is 100, the maximum score 300, and the passing score 240. For the assessment of professional teaching, the basic skills test, and any new content-area test first administered after December 31, 2002, the minimum scaled score is 100, the maximum score 300, and the passing score 240.

"Subarea score" is the scaled score for the subset of test items on a subject matter test or content-area test which measures specific content, and the "subarea score" is the scaled score for each subset of test items on the basic skills test which measures specific content in reading comprehension, writing, language arts, and mathematics.

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"Test" or "Tests" refers to the test of basic skills, the assessment of professional teaching, the language proficiency tests, and the tests of subject matter knowledge (or "content-area tests") for the Illinois Certification Testing System. Through June 30, 2004, these tests are:

Agriculture
Art (K-12)
Art (6-12)
Assessment of Professional Teaching – Early Childhood
Assessment of Professional Teaching – Elementary
Assessment of Professional Teaching – Secondary
Assessment of Professional Teaching – Special
Basic Skills
  Language Arts
  Mathematics
  Reading Comprehension
  Writing
Biological Science
Blind and Partially Sighted
Business/Marketing/Management
Chemistry
Chief School Business Official
Computer Science
Dance
Deaf and Hard of Hearing
Early Childhood
Educable Mentally Handicapped
Elementary/Middle Grades (K-9)
English
English as a Second Language
English Language Proficiency
French
General Administrative
General Science
General Supervisory (available through June 30, 2003)
German
Guidance
Health
Health Occupations
Hebrew
History

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Family and Consumer Sciences
Industrial Technology Education
Italian
Latin
Learning Disabilities
Mathematics
Media
Music (K-12)
Music (6-12)
Physical Education (K-12)
Physical Education (6-12)
Physically Handicapped
Physical Science
Physics
Reading
Russian
School Nurse
School Psychology
School Social Work
Social/Emotional Disorders
Social Science
Spanish
Speech
Speech and Language Impaired
Superintendent
Theatre Arts
Trainable Mentally Handicapped
Transitional Bilingual Education
- Arabic
- Cantonese
- Greek
- Gujarati
- Hindi
- Japanese
- Korean
- Lao
- Mandarin
- Polish
- Russian
- Spanish
- Urdu

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Vietnamese

Beginning July 1, 2004, the Illinois Certification Testing System shall consist of the following tests in addition to the content-area tests applicable to certification in special education:

Agricultural Education
Assessment of Professional Teaching
- Early Childhood
- Elementary
- Secondary
- Special

Basic Skills
Business, Marketing, and Computer Education
Chief School Business Official
Dance
Director of Special Education (required beginning July 1, 2005)
Drama/Theatre Arts
Early Childhood
Early Childhood Special Education
Elementary/Middle Grades (K-9)
English Language Arts
English Language Proficiency
English as a New Language
Family and Consumer Sciences
Foreign Languages
- Chinese (Cantonese or Mandarin)
- French
- German
- Hebrew
- Italian
- Japanese
- Korean
- Latin
- Russian
- Spanish

General Administrative
Guidance (through June 30, 2005)
Health Education
Health Careers
Library Information Specialist

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Mathematics
Music
Physical Education
Reading Teacher
Reading Specialist
School Counselor (beginning July 1, 2005)
School Nurse
School Psychologist
School Social Worker
Sciences
- Biology
- Chemistry
- Earth and Space Science
- Environmental Science
- Physics

Social Sciences
- Economics
- Geography
- History
- Political Science
- Psychology
- Sociology and Anthropology

Superintendent
Technology Education
Technology Specialist
Transitional Bilingual Education – Language Proficiency
- Arabic
- Cantonese
- Greek
- Gujarati
- Hindi
- Japanese
- Korean
- Lao
- Mandarin
- Polish
- Russian
- Spanish
- Urdu
- Vietnamese

Visual Arts

"Test items" are specific questions asked on a test that require a person either to select the correct response from those alternative responses provided or to produce a written response.

"Test objective" is a statement of the behavior or performance measured by test items.

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

Section 25.720 Applicability of Testing Requirement and Scores

~~The provisions of subsections (d) through (i) of this Section shall apply with respect to applications for certification that are received or processed on or after July 1, 2004.~~

~~a)~~ ~~Beginning July 1, 1999, each person seeking a school service personnel or administrative certificate or an initial early childhood, elementary, secondary, or special certificate must pass the Illinois Certification Testing System's test of basic skills and a test of subject matter knowledge. Beginning with the 2002-2003 academic year, however, passage of those tests shall be required as specified in Section 21-1a(d) of the School Code. Beginning October 1, 2003, each person seeking an initial early childhood, elementary, secondary, or special certificate shall also be required to pass the applicable assessment of professional teaching, which shall be based upon the standards set forth in "Standards for All Illinois Teachers" (23 Ill. Adm. Code 24). An individual seeking a standard certificate shall be required to pass the test of basic skills, the test of subject matter knowledge, or (beginning October 1, 2003) the applicable assessment of professional teaching only if:~~

~~1)~~ ~~he or she has not already passed that examination (except that an individual who met all applicable requirements for certification and applied for an initial certificate before October 1, 2003, shall not subsequently be required to take the assessment of professional teaching for that certificate); or~~

~~2)~~ ~~he or she has passed that examination but the score is more than five years old and no certificate has been issued on the basis of that score; or~~

~~3)~~ ~~in the case of the basic skills test, the score is more than five years old and the individual was not admitted to an Illinois teacher preparation program on the basis of that score.~~

~~b) The required test of subject matter knowledge is the test that corresponds to the individual's major field of study in a teacher education program in the State of Illinois approved pursuant to Subpart C of this Part.~~

~~c) Persons who are graduates of colleges or universities outside the State of Illinois and who are seeking an Illinois certificate must take the test of basic skills, the subject matter knowledge test that corresponds to the Illinois certificate or endorsement sought, and, beginning October 1, 2003, the assessment of professional teaching relevant to the certificate sought. For example, someone seeking to teach whose major field of study is urban studies would, in addition to the basic skills test, also take the subject matter knowledge test in the social sciences and the assessment of professional teaching for the secondary certificate.~~

a~~d~~) It is the individual's responsibility to take the appropriate tests. Upon request, the State Board of Education shall assist individuals in identifying appropriate tests.

b~~e~~) Basic Skills Test
Except as provided in subsections (b)(1)~~(e)(1)~~ and (3) of this Section, each candidate seeking his or her first Illinois certificate (teaching, administrative, or school service personnel) shall be required to pass the test of basic skills. Further, Section 21-1a(d) of the School Code requires passage of this test as a prerequisite to enrollment in an Illinois teacher preparation program beginning with the 2002-2003 academic year.

1) A person who has passed the test of basic skills as a condition of admittance to an Illinois preparation program approved pursuant to Subpart C of this Part shall not be required to retake that test.

2) A person who has passed the basic skills test and has been issued an Illinois certificate on the basis of the test shall not be required to retake the basic skills test when seeking any subsequent certificate.

3) *A person who holds a valid and comparable out-of-state certificate is not required to take a test of basic skills.* (Section 21-1a of the School Code [105 ILCS 5/21-1a]) For purposes of this subsection (b)(3)~~(e)(3)~~, a "comparable certificate" is one that either:

A) was issued on or before June 30, 2004; or

B) was issued on or after July 1, 2004, based on the individual's passage of a test of basic skills.

4) The provisions of subsection (b)(3)~~(e)(3)~~ of this Section notwithstanding, any individual who has attempted the Illinois basic skills test without passing it shall be required to pass it in order to qualify for an Illinois certificate.

5) When a person who was not required to take the basic skills test pursuant to subsection (b)(3)(A)~~(e)(3)(A)~~ of this Section seeks a subsequent Illinois certificate, he or she shall be required to pass the Illinois test of basic skills. However, a person applying for another Illinois certificate based on an additional out-of-state certificate or qualifications shall be treated as an out-of-state applicant and shall be subject to subsection (b)(3)~~(e)(3)~~ of this Section.

c~~f~~) Content-Area Tests

1) Except as provided in subsection (c)(2)~~(f)(2)~~ of this Section, each candidate seeking an Illinois certificate, whether his or her first certificate or a subsequent certificate, shall be required to pass a content-area test. The required content-area test is that which corresponds to the approved program completed or the endorsement for which the applicant otherwise qualifies. Further, Section 21-1a(d) of the School Code requires passage of this test for program completion~~as a prerequisite to student teaching in Illinois beginning with the 2004-2005 academic year~~.

2) *A person who holds a valid and comparable out-of-state certificate is not required to take the applicable content-area test if he or she has passed a certification test in another state or territory that is directly related in content to the specific area of certification.* (Section 21-1a of the School Code) For purposes of this Section, a test is "directly related in content" if it covered material encompassed by any of the subject areas in which the individual otherwise qualifies for an Illinois endorsement.

3) A person who has passed a test of language proficiency in order to qualify for a transitional bilingual certificate and received that certificate shall not be required to retake that test in order to qualify for a bilingual education credential on another certificate received later. A person who has passed a test of language proficiency as a condition of admission to an Illinois preparation program shall also not be required to retake that test.

d~~g~~) Assessment of Professional Teaching (APT)
Each candidate seeking his or her first Illinois early childhood, elementary, secondary, or special certificate shall be required to pass the APT relevant to the certificate sought (see Section 25.710 of this Part). A candidate seeking a subsequent teaching certificate of one of these types must also pass the APT relevant to the certificate sought, unless he or she either:

1) has already passed an APT that encompasses the grade levels of the subsequent certificate sought; or

2) already holds another Illinois teaching certificate that encompasses the grade levels of the certificate sought.

e~~h~~) Except as provided in subsections (b~~e~~)(1), (c)(3), and (d~~g~~)(1) of this Section, for each person seeking an Illinois certificate, no score on a required test may be more than five years old at the time application is made. The five-year period shall be calculated from the date the test was taken and passed to the date of receipt of the application by the State Board of Education. Scores more than five years old will not be accepted as part of an application.

f~~i~~) Any person may retake any test during any subsequent, regularly scheduled administration of that test, subject only to registration in accordance with the provisions of this Subpart I.

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

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Section 25.APPENDIX E Endorsement Structure Beginning July 1, 2004

Section 25.100 of this Part explains the applicability of "designations" where shown as required in the following table. An asterisk next to the name of an endorsement or designation indicates that there is no content-area test for that credential. The relevant provisions of Section 25.100(e) of this Part shall apply in those cases.

Endorsements Available as of July 1, 2004	Designations	Endorsements Previously Issued
Fundamental Learning Areas		
English Language Arts	None	English Journalism Language Arts Speech
Reading Teacher	None	Reading
Reading Specialist	None	Reading
Mathematics	None	Mathematics
Sciences – Designation or Limited Endorsement under Section 25.100(h)(5) Required	Biology Chemistry Earth and Space Science Environmental Science Physics	Biological Science Botany Physiology Zoology Chemistry Aerospace Astronomy Earth Science Geology Physical Geography Biological Science Physical Science General Science Physics

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Endorsements Available as of July 1, 2004	Designations	Endorsements Previously Issued
Social Sciences – Designation or Limited Endorsement under Section 25.100(h)(5) Required	Economics Geography History Political Science Psychology Sociology and Anthropology	Economics Geography History U.S. History World History Political Science Psychology Anthropology Sociology
Physical Education	None	Physical Education
Health Education	None	Health Education
Dance	None	Dance
Drama/Theatre Arts	None	Theatre and Drama
Music	None	Music Instrumental Music Vocal Music
Visual Arts	None	Art
Foreign Languages – Designation Required	Chinese French German Hebrew Italian Japanese Korean Latin Russian Spanish	None French German Hebrew Italian None None Latin Russian Spanish

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Endorsements Available as of July 1, 2004	Designations	Endorsements Previously Issued
Additional Teaching Fields		
Agricultural Education	None	Agricultural Business and Management Agriculture Agricultural Power and Machinery Horticulture Agricultural Resources
Business, Marketing, and Computer Education – Designation Optional	Business Computer Programming*	Accounting Basic Business Business Computer Programming Business/Marketing/ Management Information Processing Information Processing/ Secretarial Marketing
Family and Consumer Sciences – Designation Required	Apparel and Textiles* Living Environments* Nutrition, Wellness, and Hospitality*	Child and Day Care Services Consumer Education and Resource Management Fashion and Clothing Services Food and Nutrition Services Home Economics Institutional and Home Management Services Interior Furnishings Services/Living Environments Interpersonal, Family Relationships, Parenting

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Endorsements Available as of July 1, 2004	Designations	Endorsements Previously Issued
Health Careers	None, but licensure in a specific occupation is required	Health Occupations
Technology Education	None	Industrial Technology Education Construction Electronics Graphic Communications Transportation Manufacturing Industrial Technology Public Service Drafting/Design Autobody Repair Heating, Ventilation, and Air Conditioning
Technology Specialist	None	Computer Technology Instructional Technology
Library Information Specialist	None	Media
Safety and Driver Education*	None	Safety and Driver Education
English as a New Language (ENL) – Designation Optional	Bilingual Education (language-specific)	Bilingual Education English as a Second Language
Middle-Level	Subject-specific	Middle-Grades
Elementary		
Self-Contained General Elementary Education	None	Self-Contained General Education

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Endorsements Available as of July 1, 2004	Designations	Endorsements Previously Issued
Early Childhood		
Early Childhood	None	Early Childhood
Early Childhood Special Education	None	
Administrative		
Chief School Business Official		Chief School Business Official
Director of Special Education		Director of Special Education
General Administrative		General Administrative
Superintendent		Superintendent
School Service Personnel		
School Counselor		Guidance
School Nurse		School Nurse
School Psychologist		School Psychologist
School Social Worker		School Social Worker
Non-Teaching Speech-Language Pathologist		Non-Teaching Speech-Language Pathologist
Supervisory	None; see Sections 21-4 and 21-25 of the School Code and Section 25.497 of this Part.	Supervisory

(Source: Amended at 30 Ill. Reg. 8494, effective April 21, 2006)

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NOTICE OF ADOPTED RULES

1) Heading of the Part: Education Purchasing Program

2) Code Citation: 44 Ill. Adm. Code 1110

3)

Section Numbers:	Adopted Action:
1110.10	New Section
1110.20	New Section
1110.30	New Section
1110.35	New Section
1110.40	New Section
1110.50	New Section
1110.60	New Section
1110.70	New Section
1110.80	New Section
1110.90	New Section
1110.100	New Section
1110.110	New Section

4) Statutory Authority: 105 ILCS 5/28A-20

5) Effective Date of Rules: April 21, 2006

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 rules, 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: May 13, 2005; 29 Ill. Reg. 6813

10) Has JCAR issued a Statement of Objection to these rules? Yes

A) Statement of Objection: April 28, 2006; 30 Ill. Reg. 7982

B) Agency Response: May 5, 2006; 30 Ill. Reg. 8687

C) Date Agency Response Submitted for Approval to JCAR: April 21, 2006

11) Differences between proposal and final version:

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NOTICE OF ADOPTED RULES

The definition of "due advertisement" in Section 1110.20 was expanded by the insertion of examples.

The term "educational entity" in Section 1110.20 has been defined in order to capture the types of entities to which contracts will be made available under this Part.

The definition of "supplies" in Section 1110.20 has been revised to exclude insurance.

Language was inserted in Section 1110.40 to distinguish more clearly between the basis for certifying a contract for supplies and the basis for certifying a contract for services, as well as to state more specifically the fundamental pre-condition for certification.

Examples of key categories of contracts were added to Section 1110.60(a).

Information on the process for participation in contracts was made more explicit (see Section 1110.50).

A number of additional Sections were included, including Section 1110.35 and those beginning with Section 1110.70, to provide details regarding the procurement of statewide education master contracts; the process for submitting contracts for certification; how contracts will be selected for certification; the certification of other cooperative purchasing programs; the evaluation of contracts after certification; and the withdrawal of certification.

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 rules replace any emergency rulemakings currently in effect? No

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

15) Summary and Purpose of Rules: These rules implement the portion of Public Act 93-1036 that added Article 28A to the School Code, authorizing the Education Purchasing Program. By means of these rules, ISBE designates itself, rather than another entity, as the state education purchasing entity. The rules also state the criteria on which certification of education purchasing contracts and/or statewide education master contracts will be based. Once these contracts are certified, ISBE will make participation in them available to school districts and other public educational entities so that they may benefit from the negotiated terms.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

16) Information and questions regarding these adopted rules 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 Rules begins on the next page:

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XIII: STATE BOARD OF EDUCATION

PART 1110
EDUCATION PURCHASING PROGRAM

Section

1110.10 Purpose and Scope
1110.20 Definitions
1110.30 State Education Purchasing Entity
1110.35 Procurement of Statewide Education Master Contracts
1110.40 Certification of Education Purchasing Contracts
1110.50 Participation by Educational Entities
1110.60 Provision of Information and Definition of Key Categories
1110.70 Process for Submitting Contracts for Certification
1110.80 Selecting Contracts for Certification
1110.90 Certification of Other Governmental Entities' Cooperative Purchasing Programs
1110.100 Evaluation of Education Purchasing Contracts
1110.110 Withdrawal of Certification

AUTHORITY: Implementing Article 28A of the School Code [105 ILCS 5/Art. 28A] and authorized by Section 28A-20 of the School Code [105 ILCS 5/28A-20].

SOURCE: Adopted at 30 Ill. Reg. 8563, effective April 21, 2006.

Section 1110.10 Purpose and Scope

The purpose of this Part is to create an education purchasing program and establish the process by which the State Board of Education (ISBE) will certify education purchasing contracts and identify and define key categories for such contracts in accordance with Section 28A-10 of the School Code [105 ILCS 5/28A-10].

Section 1110.20 Definitions

"Contracting entity" means a local government entity established pursuant to the laws of Illinois or another state, an agency of the State of Illinois or another state, a federal government entity, a not-for-profit entity established pursuant to the laws of Illinois or another state, a for-profit entity established pursuant to the laws

of Illinois or another state, or a cooperative entity consisting of any two or more of the foregoing entities.

"Due advertisement" means public notice published at least 10 days before the bid date in a newspaper of general circulation in the locality of the contracting entity, or public notice otherwise determined by the State Superintendent of Education to provide notification of the bidding opportunity to a wide variety of potential vendors (e.g., on websites maintained by contracting entities or in trade magazines or other publications designed for targeted audiences).

"Educational entity" means a school district, cooperative entity made up of multiple school districts, regional office of education, or charter school.

"Education purchasing contract" means a contract that is procured and negotiated by a contracting entity or a statewide education master contract negotiated by the State Board of Education, certified pursuant to this Part, and made available by ISBE to educational entities.

"Services" means the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance.

"Statewide education master contract" shall mean a contract that is procured and negotiated by ISBE and made available to educational entities.

"Supplies" means all personal property, including but not limited to equipment, materials, and printing, but excluding insurance, and the financing of those supplies.

Section 1110.30 State Education Purchasing Entity

ISBE shall act as the State education purchasing entity pursuant to Section 28A-10 of the School Code [105 ILCS 5/28A-10].

Section 1110.35 Procurement of Statewide Education Master Contracts

When ISBE procures a statewide education master contract, the procurement shall rely upon the Board's authority under its rules for Procurement by the State Board of Education (44 Ill. Adm. Code 1105) and shall be accomplished in accordance with the requirements of that Part.

STATE BOARD OF EDUCATION

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Section 1110.40 Certification of Education Purchasing Contracts

The State Superintendent of Education shall review each potential education purchasing contract as described in this Section for the purpose of determining whether it was procured in a manner that is comparable in all material respects to the requirements of the Illinois Procurement Code [30 ILCS 500] and Section 10-20.21 of the School Code [105 ILCS 5/10-20.21], i.e., in a manner that makes the contract suitable for use by educational entities.

a) Subject to the provisions of Section 1110.80 of this Part, an education purchasing contract for supplies may be certified if the State Superintendent determines that the contract was awarded by the contract entity:

1) to the lowest responsible bidder;

2) considering conformity with specifications, terms of delivery, quality and serviceability; and

3) after due advertisement.

b) Subject to the provisions of Section 1110.80 of this Part, an education purchasing contract for services may be certified either on the basis set forth in subsection (a) of this Section or if the State Superintendent determines that the contract was awarded by the contracting entity through a process consisting of all of the following elements:

1) solicitation of proposals through a request for proposals setting forth evaluation factors and stating the relative importance of price and other evaluation factors;

2) due advertisement of the solicitation;

3) separate evaluation and ranking of the price and non-price items of the proposals; and

4) award to the responsible offeror whose proposal is determined to be most advantageous to the contracting entity, taking into consideration price and the other evaluation factors set forth in the request for proposals.

c) No contract shall be certified as an education purchasing contract or a statewide education master contract unless:

1) the scope of the contract permits participation by governmental entities (including educational entities) beyond the original contracting entity;

2) the vendor consents; and

3) the terms of the contract can be extended to other governmental entities without substantially modifying the range of supplies or services offered through the contract.

Section 1110.50 Participation by Educational Entities

a) An educational entity that elects to participate in one or more contracts pursuant to this Part shall be required to register with ISBE or a designee and agree to abide by all the terms of any contract joined. Before soliciting bids or awarding contracts for supplies, materials, equipment, or services, an educational entity may review education purchasing contracts and consider them as bids. The educational entity may, without soliciting additional bids, purchase supplies, materials, equipment, or services through a certified education purchasing contract or statewide education master contract by following the specific procedure established within each contract.

b) Participation in contracts under this Part shall be at the sole option of educational entities, and educational entities shall be solely responsible for any obligations incurred as a result of their participation.

Section 1110.60 Provision of Information and Definition of Key Categories

ISBE shall provide contracting information and pricing for certified education purchasing contracts and statewide education master contracts on the agency's website and through additional means specifically designed to reach administrators of educational entities. On the agency's website, ISBE shall:

a) identify and define the categories of certified education purchasing contracts and statewide education master contracts, which shall be based upon input received from school district business officials and regional offices of education and may include, but need not be limited to, office supplies, classroom furniture, maintenance services, and accounting services;

b) describe the process for educational entities' participation in education purchasing contracts or statewide education master contracts; and

c) indicate for each contract how the vendor may be contacted and provide other information relevant to participation in that contract, if any.

Section 1110.70 Process for Submitting Contracts for Certification

At least once each fiscal year, the State Superintendent shall identify the categories under consideration at that time and establish a timeframe during which applications for the certification of education purchasing contracts will be accepted. Any party to an education purchasing contract may submit the contract for review and consideration through this application process. In addition to a copy of the contract, the party making the submission shall provide:

a) Evidence of consent by the other party to the contract for certification of the contract by ISBE;

b) Sufficient information to demonstrate that the contract was awarded through a process meeting the criteria set forth in Section 1110.40(a) of this Part, which shall include, but need not be limited to:

1) the request for proposals or invitation for bids that was used to procure the contract;

2) evidence of due advertisement of the request for proposals or invitation for bids; and

3) a certification from the procuring entity or other evidence that the contract was awarded to the lowest responsible bidder, considering conformity with specifications, terms of delivery, quality, and serviceability;

c) A certification that the contract was procured in conformance with the requirements that apply in the locality of the contracting entity, including a specific statutory or regulatory citation to those requirements;

d) An indication of the Illinois educational entities the vendor is able and willing to serve;

e) A description of the range of supplies or services available through the contract;

f) Information on the level of customer service that will be offered to educational entities participating in the contract;

g) Evidence that the vendor has adequate financial, organizational, and technical resources to administer the contract;

h) A description of the process by which educational entities may participate in the contract; and

i) Certifications, assurances, and/or additional information that the State Superintendent may require in order to verify any information reported by the applicant or to otherwise fulfill ISBE's duties with respect to administration of the education purchasing program.

Section 1110.80 Selecting Contracts for Certification

a) The State Superintendent shall review each application received and determine whether each contract meets the criteria set forth in Section 1110.40 of this Part. Of those meeting the criteria, the State Superintendent may select one or more contracts for certification based upon the following factors:

1) The number of educational entities eligible to participate in the contracts that are eligible for certification;

2) The qualifications of the vendors involved in the eligible contracts;

3) The level of serviceability of the eligible contracts;

4) The quality of the supplies or services offered through the eligible contracts and the extent to which the supplies or services are appropriate for use by educational entities;

5) The comparative extent to which the costs of supplies or services are discounted, based on a standard index or other objectively verifiable criterion;

6) The contracting entity's use of businesses owned by minorities, females, and persons with disabilities to provide supplies or services under the contract;

7) The simplicity of the process for educational entities' participation in the contract; and

8) The extent to which resources of ISBE would be needed for overseeing the administration of the contract through the education purchasing program.

b) When choosing among two or more substantially similar contracts for certification, the State Superintendent shall give preference to contracts awarded to Illinois-based companies or, if no eligible contract involves an Illinois-based company, to the contract with the company employing the largest number of Illinois residents.

c) The State Superintendent shall base the determination regarding the number of eligible contracts that will be certified in each category at any given time on adequate coverage of the various geographic areas of the State and the provision of an adequate range of supplies and services to meet the needs of Illinois educational entities.

Section 1110.90 Certification of Other Governmental Entities' Cooperative Purchasing Programs

The State Superintendent may at any time certify contracts offered through other cooperative purchasing programs developed by agencies of the State of Illinois, Illinois public universities, regional offices of education, or other governmental entities upon determining that the contracts offered through one or more of these cooperative purchasing programs meet the criteria for certification set forth in Section 1110.40 of this Part.

Section 1110.100 Evaluation of Education Purchasing Contracts

At least once every five years, the State Superintendent shall evaluate each education purchasing contract to determine whether the vendor's performance is consistent with the information and standards provided to ISBE at the time of certification. Based upon this determination, the State Superintendent shall either re-certify the education purchasing contract for a period of time not to exceed five years or withdraw the contract's certification and no longer allow participation in that contract through the education purchasing program.

Section 1110.110 Withdrawal of Certification

a) In addition to the basis for withdrawing certification set forth in Section 1110.100 of this Part, the State Superintendent shall withdraw the certification of an education purchasing contract at any time if:

1) the vendor has failed to perform in accordance with the terms and provisions of the contract while providing supplies or services to Illinois educational entities;

2) the contract has been terminated or has expired by its terms; or

3) the State Superintendent determines, from the point of view of the contract's benefit to educational entities, that:

A) an amendment to the contract has substantially and negatively modified the contract's terms or the range of supplies or services offered through the contract; or

B) an amendment to the contract has substantially and negatively affected the terms of delivery, quality, or serviceability of the supplies or services offered through the contract.

b) The State Superintendent shall use the web-based resources of ISBE and other means designed to reach educational entities to notify them when certification of a contract under this Part is withdrawn.

1) An educational entity that has commenced a transaction under an education purchasing contract may complete that transaction notwithstanding any action by the State Superintendent to remove the contract's certification.

2) No new transactions may be commenced under a contract whose certification has been withdrawn.

DEPARTMENT OF FINANCIAL PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Dental Practice Act

2) Code Citation: 68 Ill. Adm. Code 1220

3)

Section Numbers:	Adopted Action:
1220.120	Amendment
1220.220	Amendment

4) Statutory Authority: Illinois Dental Practice Act [225 ILCS 25].

5) Effective Date of Amendments: April 20, 2006

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) Date Notice of Proposal Published in Illinois Register: September 30, 2005; 29 Ill. Reg. 14455.

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: Clarifies that the exam is called the American Dental Licensing Examination (ADLEX) and that the accepted passing score shall be the score established in the Candidate's Manual, and clarifies that the regional exams will continue to be accepted if passed in their entirety prior to October 1, 2006.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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

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

15) Summary and Purpose of Amendments: Sections 1220.120 and 1220.220 regarding examinations for dentists and dental hygienists are being amended to reflect changes made nationally away from the regional board examinations to the American Dental Licensing

DEPARTMENT OF FINANCIAL PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Examination (ADLEX) developed by the American Board of Dental Examiners, Inc. (ADEX).

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

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois 62786

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

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

DEPARTMENT OF FINANCIAL PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1220
ILLINOIS DENTAL PRACTICE ACT

SUBPART A: DENTIST

Section
1220.100 Application for Licensure
1220.110 Application for Examination (Repealed)
1220.120 Dental Examinations
1220.130 System of Retaking the Clinical Sections of the Examination (Repealed)
1220.140 Minimum Standards for an Approved Program in Dentistry
1220.150 Licensure (Repealed)
1220.155 Restricted Faculty Licenses
1220.156 Temporary Training License
1220.160 Restoration
1220.170 Renewal

SUBPART B: DENTAL HYGIENIST

Section
1220.200 Application for Licensure
1220.210 Application for Examination (Repealed)
1220.220 Dental Hygiene Examination
1220.230 System of Grading (Repealed)
1220.231 System of Retaking the Clinical Examination (Repealed)
1220.240 Prescribed~~Permitted~~ Duties of Dental Hygienists~~Auxiliaries~~
1220.250 Approved Programs of Dental Hygiene
1220.260 Restoration
1220.270 Renewal

SUBPART C: DENTAL SPECIALIST

Section
1220.310 Applications
1220.320 Examination
1220.330 System of Grading (Repealed)

DEPARTMENT OF FINANCIAL PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1220.335 American Board Diplomates
1220.340 Specialty Listing (Repealed)
1220.350 Restoration
1220.360 Renewal

SUBPART D: GENERAL

Section
1220.380 Definitions
1220.400 Reportable Diseases and Conditions
1220.405 Reporting of Adverse Occurrences
1220.410 Endorsement
1220.415 Fees
1220.421 Advertising
1220.425 Referral Services
1220.431 Employment by Corporation (Repealed)
1220.435 Renewals (Repealed)
1220.440 Continuing Education
1220.441 Granting Variances

SUBPART E: ANESTHESIA PERMITS

Section
1220.500 Definitions
1220.505 Anxiolysis in the Dental Office Setting
1220.510 Conscious Sedation in the Dental Office Setting
1220.520 Deep Sedation and General Anesthesia in the Dental Office Setting
1220.525 Renewal
1220.530 Anesthesia Review Panel (Repealed)
1220.540 Approved Programs in Anesthesiology
1220.550 Reporting of Adverse Occurrences (Repealed)
1220.560 Restoration of Permits

1220.APPENDIX A Pre-clinical Restorative Dentistry Sub-section (Repealed)
1220.APPENDIX B Dental Assistant Permitted Procedures (Repealed)
1220.APPENDIX C Dental Hygienist Permitted Procedures (Repealed)
1220.APPENDIX D Characteristics of Levels of Anesthesia

AUTHORITY: Implementing the Illinois Dental Practice Act [225 ILCS 25] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

DEPARTMENT OF FINANCIAL PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Rules and Regulations for the Administration and Enforcement of the Provisions of the Illinois Dental Practice Act, effective August 16, 1967; amended at 3 Ill. Reg. 16, p. 21, effective April 21, 1979; amended at 3 Ill. Reg. 42, p. 266, effective October 3, 1979; codified at 5 Ill. Reg. 11028; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 4174, effective May 24, 1982; amended at 6 Ill. Reg. 7448, effective June 15, 1982; emergency amendment at 7 Ill. Reg. 8952, effective July 15, 1983, for a maximum of 150 days; emergency expired December 12, 1983; amended at 8 Ill. Reg. 15610, effective August 15, 1984; amended at 10 Ill. Reg. 20725, effective December 1, 1986; transferred from Chapter I, 68 Ill. Adm. Code 220 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1220 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2926; amended at 13 Ill. Reg. 4191, effective March 16, 1989; amended at 13 Ill. Reg. 15043, effective September 11, 1989; amended at 17 Ill. Reg. 1559, effective January 25, 1993; emergency amendment at 17 Ill. Reg. 8309, effective May 21, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 15890, effective September 21, 1993; amended at 17 Ill. Reg. 21492, effective December 1, 1993; amended at 19 Ill. Reg. 6606, effective April 28, 1995; amended at 21 Ill. Reg. 378, effective December 20, 1996; emergency amendment at 22 Ill. Reg. 2332, effective January 8, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 10574, effective June 1, 1998; amended at 22 Ill. Reg. 14880, effective July 29, 1998; amended at 23 Ill. Reg. 7294, effective June 10, 1999; amended at 24 Ill. Reg. 13992, effective August 31, 2000; amended at 25 Ill. Reg. 10901, effective August 13, 2001; amended at 26 Ill. Reg. 18286, effective December 13, 2002; amended at 30 Ill. Reg. 8574, effective April 20, 2006.

SUBPART A: DENTIST

Section 1220.120 Dental Examinations

a) The Department of Financial and Professional Regulation-Division of Professional Regulation (Division), upon recommendation of the Board of Dentistry (Board), shall accept the American Dental Licensing Examination (ADLEX) developed by the American Board of Dental Examiners, Inc. (ADEX)~~following examinations~~ for licensure.~~:~~ The passing score accepted by the Division shall be the passing score established in the American Dental Licensing Examination Candidate's Manual (American Board of Dental Examiners, Inc., 207 East Ohio St. #379, Chicago, Illinois 60611 (2006)), no later amendments or editions included. Dental licensure candidates can view and download a copy of the Candidate's Manual online at www.nerb.org/manual.htm or www.crdts.org/dental.htm.

b) The Division, upon recommendation from the Board, shall also accept the following examinations for licensure if administered and passed in their entirety prior to October 1, 2006:

1) Central Regional Dental Testing Service (CRDTS) and North East Regional Board (NERB) Combined Regional Examination (CORE) with a passing score of 75. Beginning July 1, 1998, the passing score accepted by the Division~~Department~~ shall be the passing score established by the testing entity;

2) The North East Regional Board (NERB) with a passing score of 75 or better on each part. Beginning July 1, 1998, the passing score accepted by the Division~~Department~~ shall be the passing score established by the testing entity;

3) The Central Regional Dental Testing Service (CRDTS) Examination taken after January 1, 1988, with a passing score of 75 or better on each part of the examination prior to May 1993. Beginning in May 1993, a passing score of 70 or better on each part of the examination shall be accepted for licensure. Beginning July 1, 1998, the passing score accepted by the Division~~Department~~ shall be the passing score established by the testing entity. Beginning July 1, 2002, the passing score on the examination shall be 75;

4) The Southern Regional Testing Agency, Inc. (SRTA) Examination taken after January 1, 1991, with a passing score of 75% or better on each section of the examination. Beginning July 1, 1998, the passing score accepted by the Division~~Department~~ shall be the passing score established by the testing entity; or

5) The Western Regional Examination Boards (WREB) Examination taken after May 1, 1998, with a passing score as established by the testing entity.

c~~b~~) Retake requirements shall be that of the testing entity.

d~~c~~) The applicant shall have the examination scores submitted to the Division~~Department~~ directly from the reporting entity.

e~~d~~) The Division~~Department~~ will accept only examinations that have been completed in the 5 years prior to submission of the application, if never licensed in another

jurisdiction.

(Source: Amended at 30 Ill. Reg. 8574, effective April 20, 2006)

SUBPART B: DENTAL HYGIENIST

Section 1220.220 Dental Hygiene Examination

a) The Division~~Department~~, upon recommendation of the Board, shall accept the American Dental Licensing Examination (ADLEX) developed by the American Board of Dental Examiners, Inc. (ADEX)~~following examinations~~ for licensure.~~:~~ The passing score accepted by the Division shall be the passing score established in the American Dental Licensing Examination Candidate's Manual (American Board of Dental Examiner's, Inc., 207 East Ohio St. #379, Chicago, Illinois 60611 (2006)), no later amendments or editions included. Dental hygiene licensure candidates can view and download a copy of the Candidate's Manual online at www.nerb.org/manual.htm or www.crdts.org/dental.htm.

b) The Division, upon recommendation from the Board, shall also accept the following examinations for licensure if administered and passed in their entirety prior to October 1, 2006:

1) The North East Regional Board (NERB) with a passing score of 75 or better on each part of the examination. Beginning July 1, 1998, the passing score accepted by the Division~~Department~~ shall be the passing score established by the testing entity;

2) The Central Regional Dental Testing Service (CRDTS) Examination after January 1, 1988, with a passing score of 75 prior to May 1993. Beginning in May 1993 a passing score of 70 or better on each part of the examination shall be accepted for licensure. Beginning July 1, 1998, the passing score accepted by the Division~~Department~~ shall be the passing score established by the testing entity. Beginning July 1, 2002, the passing score on the examination shall be 75;

3) The Southern Regional Testing Agency, Inc. (SRTA) Examination after January 1, 1991, with a passing score of 75% or better on each part of the examination. Beginning July 1, 1998, the passing score accepted by the Division~~Department~~ shall be the passing score established by the testing entity; or

4) The Western Regional Examination Boards (WREB) Examination taken after May 1, 1998, with a passing score as established by the testing entity.

c~~b~~) Retake requirements shall be that of the testing entity.

d~~c~~) The applicant shall have examination scores submitted to the Division~~Department~~ directly from the reporting entity.

e~~d~~) The Division~~Department~~ will only accept examinations that have been completed in the 5 years prior to submission of the application, if never licensed in another jurisdiction.

(Source: Amended at 30 Ill. Reg. 8574, effective April 20, 2006)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Nursing and Advanced Practice Nursing Act − Registered Professional Nurse and Licensed Practical Nurse

2) Code Citation: 68 Ill. Adm. Code 1300

3)

Section Numbers:	Adopted Action:
1300.10	Amendment
1300.15	Amendment
1300.20	Amendment
1300.25	Amendment
1300.30	Amendment
1300.35	Amendment
1300.37	New Section
1300.40	Amendment
1300.41	Amendment
1300.42	Amendment
1300.43	Amendment
1300.44	Amendment
1300.45	Amendment
1300.48	Amendment
1300.50	Amendment
1300.60	Amendment
1300.65	Amendment
1300.70	Amendment
1300.75	Amendment
1300.APPENDIX A	Amendment
1300.APPENDIX B	Amendment
1300.APPENDIX C	Amendment
1300.APPENDIX D	Amendment

4) Statutory Authority: Nursing and Advanced Practice Nursing Act [225 ILCS 65].

5) Effective Date of Amendments: April 21, 2006

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.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

9) Date Notice of Proposal Published in Illinois Register: December 2, 2005; 29 Ill. Reg. 19365.

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: Definitions were added to reflect the addition of Section 1300.37. Numerous non-substantive changes have also been made throughout the Part.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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

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

15) Summary and Purpose of Amendments: This rulemaking implements Public Act 94-351, creating a nurse externship program. The 2-year program is designed to provide an opportunity for nurses licensed in another state or territory who have not passed the National Council Licensure Examination (NCLEX) to study and become acclimated into the American healthcare system. The nurse externship permit shall expire 12 months after issuance and may not be renewed. Makes various non-substantive changes, including changing references throughout the entire Part from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.

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

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois 62786

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1300
NURSING AND ADVANCED PRACTICE NURSING ACT −
REGISTERED PROFESSIONAL NURSE AND LICENSED PRACTICAL NURSE

Section

1300.10 Definitions
1300.15 Fees
1300.20 Application for Examination or Licensure
1300.25 The Licensure Examination
1300.27 Application for Licensure on the Basis of Examination (Repealed)
1300.30 Licensure by Endorsement
1300.35 Remedial Education
1300.37 Nurse Externship
1300.40 Approval of Programs
1300.41 Approval of Current Nursing Practice Update Course
1300.42 Standards of Professional Conduct for Registered Professional Nurses
1300.43 Standards of Professional Conduct for Licensed Practical Nurses
1300.44 Standards for Pharmacology/Administration of Medication Course for Practical Nurses
1300.45 Renewals
1300.48 Restoration
1300.50 Granting Variances
1300.60 Practice of Nursing
1300.65 Unethical or Unprofessional Conduct in Nursing Practice
1300.70 Fines
1300.75 Refusal to Issue a Nurse License Based on Criminal History Record
1300.APPENDIX A Minimal Skills List for Registered Professional Nurses
1300.APPENDIX B Minimal Assignment List for Registered Professional Nurses
1300.APPENDIX C Minimal Skills List for Licensed Practical Nurses
1300.APPENDIX D Minimal Assignment List for Licensed Practical Nurses

AUTHORITY: Implementing the Nursing and Advanced Practice Nursing Act [225 ILCS 65] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 4 Ill. Reg. 4, p. 290, effective January 14, 1980; amended at 5 Ill. Reg. 801, effective January 7, 1981; codified at 5 Ill. Reg. 11044; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg.10023, effective August 1, 1982; amended at 9 Ill. Reg. 6297, effective April 24, 1985; amended at 9 Ill. Reg. 13355, effective August 21, 1985; amended at 11 Ill. Reg. 18251, effective October 27, 1987; transferred from Chapter I, 68 Ill. Adm. Code 300 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1300 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2938; amended at 12 Ill. Reg. 12088, effective July 12, 1988; amended at 14 Ill. Reg. 10035, effective June 12, 1990; emergency amendment at 15 Ill. Reg. 2855, effective February 5, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 8573, effective May 28, 1991; amended at 17 Ill. Reg. 1572, effective January 25, 1993; amended at 19 Ill. Reg. 13552, effective September 19, 1995; amended at 22 Ill. Reg. 3895, effective February 5, 1998; amended at 22 Ill. Reg. 19273, effective October 13, 1998; amended at 24 Ill. Reg. 1191, effective January 4, 2000; amended at 25 Ill. Reg. 3850, effective March 1, 2001; amended at 26 Ill. Reg. 17225, effective November 18, 2002; emergency amendment at 28 Ill. Reg. 3928, effective February 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7648, effective May 24, 2004; amended at 30 Ill. Reg. 8582, effective April 21, 2006.

Section 1300.10 Definitions

The following definitions shall apply to this Part:

~~g)~~ "Act" means the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

"Bilingual Nurse Consortium course or other comparable course approved by the Division" means a course specifically designed to prepare a nurse trained in another jurisdiction, and for whom English is a second language, to take the Illinois required licensure examination.

"Board" means the Board of Nursing.

~~e)~~ "Delegation" means the transfer of responsibility for the performance of an activity or task from a registered professional nurse to an unlicensed or licensed person with the former retaining the accountability for the outcome. Responsibility and accountability may be delegated to another licensee under the Act within the scope of practice set forth in the Act and this Part.

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

~~d)~~ "Direct Supervision" means being within the facility to provide initial and ongoing direction, procedural guidance, and evaluation of tasks and professional responsibilities delegated to a license pending nurse.~~;~~

~~f)~~ "Direction" means to give authoritative instruction to another regarding tasks and/or professional responsibilities.~~; and~~

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

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

"Externship" means a two-year program allowing a registered nurse who is licensed under the laws of another state or territory of the United States to practice as a nurse extern under the direct supervision of a registered professional nurse while preparing for the NCLEX-RN examination.

~~b)~~ "Professional Responsibility" includes making decisions and judgments requiring use of knowledge acquired by completion of an approved program for licensure as a practical or professional nurse.~~;~~

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

~~c)~~ "Supervision" means monitoring and providing guidance in which the supervisor maintains accountability for tasks and/or professional responsibilities delegated to another.~~;~~

~~a)~~ "Task" means work not requiring professional knowledge, judgment and/or decision making.~~;~~

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.15 Fees

The following fees shall be paid to the Department and are not refundable:

a) Application Fees

1) The fee for application for a license as a registered professional nurse and a licensed practical nurse is $50. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division~~Department~~ or the designated testing service, shall result in the forfeiture of the examination fee.

2) The fee for a temporary restoration or endorsement permit for a license as a registered professional nurse and licensed practical nurse is $25.

3) The fee for a nurse externship permit is $50.

b) Renewal Fees
The fee for the renewal of a license shall be calculated at the rate of $30 per year.

c) General Fees

1) The fee for the restoration of a license other than from inactive status is $20 plus payment of all lapsed renewal fees, but not to exceed $125.

2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license which has been lost or destroyed or for the issuance of a license with a change of name or address other than during the renewal period is $20. No fee is required for name and address changes on Division~~Department~~ records when no duplicate license is issued.

3) The fee for a certification of a licensee's record for any purpose is $20.

4) The fee to have the scoring of an examination authorized by the Division~~Department~~ reviewed and verified is $20 plus any fees charged by the applicable testing service.

5) The fee for a wall certificate showing licensure shall be the actual cost of producing such certificate.

6) The fee for a roster of persons licensed as registered professional nurses or licensed practical nurses in this State shall be the actual cost of producing such a roster.

7) The fee for processing a fingerprint card by the Department of State Police is the cost of processing which shall be made payable to the State Police Services Fund and shall be remitted to the State Police for deposit into the Fund.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.20 Application for Examination or Licensure

a) Each applicant shall file, with the Division~~Department of Professional Regulation (Department)~~ or the testing service designated by the Division~~Department~~, a completed, signed application, on forms supplied by the Division~~Department~~, that includes:

1) proof of graduation from a nursing education program that meets the requirements of Section 1300.40 of this Part;

2) a complete work history within the last 5 years from a practical nurse education program or a professional nurse education program, whichever came first;

3) verification of fingerprint processing from the Illinois Department of State Police, or its designated agent. (Practical nurses licensed in Illinois are not required to be fingerprinted when applying for a license as a registered professional nurse.) Applicants shall contact the Illinois Department of State Police, or its designated agent, for fingerprint processing. Out-of-state residents unable to utilize the State Police fingerprint process may submit to the Division~~Department~~ one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1300.15. Fingerprints shall be taken within the 60 days prior to application;

4) the required fees set forth in Section 1300.15 of this Part;

5) for applicants educated outside the United States or its territories, the

following:~~proof of passage for registered professional nurse applicants of:~~

A) a credentials evaluation report of the applicant's foreign nursing education from one of the following Division-approved credentialing services:

i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Credentials Evaluation Service (CES);

ii) Educational Records Evaluation Service; or

iii) International Education Research Foundation; ~~the Commission on Graduates of Foreign Nursing Schools (CGFNS) Examination for all persons applying after January 1, 1984, who completed a nursing education program in a country other than the United States or its territories; or~~

B) if the applicant's first language is not English, certification of passage of the Test of English as a Foreign Language (TOEFL). The minimum passing score on the paper-based test is 560, computer-based test is 220, and internet-based test is 83.~~the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 on the TOEFL computer-based test for those applicants who submit proof of denial of eligibility to sit for the CGFNS examination and who are licensed in a country other than the United States or its territories and determined by the Board educationally prepared in nursing;~~ The Division may, upon recommendation from an approved credentials evaluation service, waive the requirement that the applicant pass the TOEFL examination if the applicant submits verification of the successful completion of a nursing education program conducted in English or the passage of an approved licensing examination given in English;

6) official transcripts of theory and clinical education prepared by an official of the military for a practical nurse applicant who has received practical nursing education in the military service. This education must meet the standards set forth in Section 1300.40; and

7) verification from the jurisdictions in which the applicant was originally licensed, current state of licensure and any other jurisdiction in which the applicant has been actively practicing within the last 5 years, if applicable, stating:

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

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

b) Any applicant who fails to demonstrate fulfillment of the education requirements shall be notified in writing and must satisfy the deficiency before being granted temporary authority to practice nursing, as permitted under Section 5-15(g) or (i) of the Act, or being admitted to the examination. Deficiencies in nursing theory and/or clinical practice may be removed by taking the required courses in an approved nursing education program.

c) When the applicant has completed the nursing education program in less than the usual length of time through advanced standing or transfer of credits from one institution to another, the Director of nursing education shall include an explanation in the certification.

d) Pursuant to Section 10-35 of the Act, when an applicant has completed a nonapproved program that is a correspondence course or a program of nursing that does not require coordinated or concurrent theory and clinical practice, the Division~~Department~~ may grant a license to an applicant who has applied in accordance with subsection (a) and who has received an advanced graduate degree in nursing from an approved program with concurrent theory and clinical practice or who is currently licensed in another state and has been actively practicing in clinical nursing for a minimum of 2 years. Clinical practice for purposes of this Section means nursing practice that involves direct physical (psychomotor and psychosocial) patient (client) care with an acute care facility.

1) Clinical practice areas that would meet the requirements for clinical practice include the following:

A) Adult Medical Surgical Nursing

B) Pediatric Nursing

C) Maternity Nursing

D) Emergency Nursing

E) Critical Care Nursing

F) Post-Anesthesia Care Nursing

2) Clinical practice shall not include:

A) Telephone or Triage Nursing

B) Patient Education (i.e., diabetic education)

C) Patient Counseling

3) A year of clinical practice consists of not less than 1500 hours of direct patient care.

4) The Board of Nursing will review clinical practice documentation that does not meet the requirements of this subsection (d).

e) Credentials of education and licensure, if not in English, shall be accompanied by a certified translation.

f) After filing the original application, any change of name must be supported by an affidavit satisfactory to the Division~~Department~~.

g) If an applicant has taken and passed the National Council Licensure Examination (NCLEX) in accordance with Section 1300.25 of this Part, the applicant shall file an application in accordance with subsection (a) and shall have the examination scores submitted to the Division~~Department~~ directly from the testing entity or from the state of original licensure.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.25 The Licensure Examination

a) The Board ~~of Nursing (Board)~~ shall make recommendations to the Division~~Department~~ regarding content, design, and contractor for a licensure examination. A licensure examination contract shall be negotiated and approved by the Division~~Department of Professional Regulation~~.

b) Registered Professional Nurse Examination

1) The passing grade on the National Council Licensure Examination (NCLEX) for registered professional nurses shall be based on an ability scale designed to measure minimum professional nurse competency. A pass/fail grade will be assigned.

2) A registered professional nurse applicant who fails the examination is not eligible for licensure. If the applicant has been practicing professional nursing under Section 5-15(i) of the Act, the applicant shall discontinue practice until a passing grade is achieved on the examination and a license has been received from the Division~~Department~~.

3) If the examination is not passed within 3 years from the date of application, regardless of jurisdiction in which the examination was written, the applicant shall not be permitted to retake the examination until such time as the applicant has successfully recompleted the entire approved nursing education program as set forth in Section 1300.40(f)(9) or completion of an approved remedial nursing education program or course as set forth in Section 1300.35. Upon successful completion of the approved nursing education program or remedial program or course, the applicant shall submit proof to the Division~~Department~~. This subsection (b)(3) does not apply to applicants who are licensed in another jurisdiction that utilizes the examination set forth in 68 Ill. Adm. Code 1320.25.

4) If 3 years from the date of original application has lapsed, the applicant shall be required to submit a new application to the Division~~Department~~ pursuant to Section 10-30 of the Act and provide evidence of meeting the requirements in force at the time of the new application.

c) Licensed Practical Nurse Examination

1) The passing grade on the National Council Licensure Examination (NCLEX) for licensed practical nurses shall be based on an ability scale designed to measure minimum licensed practical nurse competency. A

pass/fail grade will be assigned.

2) A licensed practical nurse applicant who fails the examination is not eligible for licensure. If the applicant has been practicing as a licensed practical nurse under Section 5-15(g) of the Act, the applicant shall discontinue practice until a passing grade has been achieved on the examination and a license has been received from the Division~~Department~~.

3) If the examination is not passed within 3 years from the date of the first examination taken, regardless of the jurisdiction in which the examination was written, the applicant shall not be permitted to retake the examination until such time as the applicant has successfully recompleted the entire approved nursing education program as set forth in Section 1300.40(f)(10) or completed an approved remedial licensed practical nurse education program or course as set forth in Section 1300.35. Upon successful completion of the approved nursing education program or remedial program or course, the applicant shall submit proof to the Division~~Department~~. This subsection (c)(3) does not apply to applicants licensed in another jurisdiction that utilizes the examination set forth in 68 Ill. Adm. Code 1320.25.

4) If 3 years from the date of original application has lapsed, the applicant shall be required to submit a new application to the Division~~Department~~ pursuant to Section 10-30 of the Act.

d) Eligibility for Licensed Practical Nurse Examination
Any candidate who is unable to pass the registered professional nurse examination will not be permitted to write the practical nurse examination until or unless that applicant has graduated from an approved practical nursing education program.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.30 Licensure by Endorsement

a) Each applicant who is licensed in another jurisdiction shall file a completed, signed application for licensure on the basis of endorsement, on forms supplied by the Division~~Department~~. The application shall include:

1) the required fee in Section 1300.15 of this Part;

2) proof of graduation from a nursing education program that meets the requirements of Section 1300.40;

3) proof of passage of an examination recognized by the Division~~Department~~, upon recommendation of the Board (i.e., National Council Licensure Examination for professional nurses or practical nurses, or State Board Test Pool Examination for professional nurses or practical nurses);

4) a complete work history within the last 5 years from a practical nurse education program or a professional nurse education program, whichever came first;

5) verification of fingerprint processing from the Illinois Department of State Police, or its designated agent. (Practical nurses licensed in Illinois are not required to be fingerprinted when applying for a license as a registered professional nurse.) Applicants shall contact the Illinois Department of State Police, or its designated agent, for fingerprint processing. Out-of-state residents unable to utilize the State Police fingerprint process may submit to the Division~~Department~~ one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1300.15. Fingerprints shall be taken within the 60 days prior to application;

6) for registered nurse applicants who received education outside of the United States:

A) a credentials evaluation report of the applicant's foreign nursing education from one of the following Division-approved credentialing services:

i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Credentials Evaluation Service (CES);

ii) Educational Records Evaluation Service; or

iii) International Education Research Foundation;

~~proof of passage of the Commission on Graduates of Foreign Nursing Schools (CGFNS) Examination for all persons licensed in their original jurisdictions subsequent to January 1, 1984, who completed their nursing education program in a country other than the United States or its territories. An applicant shall be exempt from taking the CGFNS examination if the applicant:~~

~~i) has passed the examination authorized by the Department as set forth in Section 1300.25;~~

~~ii) holds an active, unencumbered license in another state; and~~

~~iii) has been actively practicing for a minimum of 2 years in the other state.~~

~~Applicants who are exempt from taking the CGFNS examination shall submit a copy of the evaluation (the Nursing and Science Course Report) of nursing education credentials submitted by a Department approved nursing credentialing evaluation service. The Department has determined, upon recommendation of the Board, that the Commission on Graduates of Foreign Nursing Schools is an approved evaluation service;~~

B) if the applicant's first language is not English, certification of passage of the Test of English as a Foreign Language (TOEFL). The minimum passing score on the paper-based test is 560, computer-based test is 220, and internet-based test is 83.~~proof of passage of the Test of English as a Foreign Language (TOEFL) with a score of 550 or 213 on the TOEFL computer based test is required of those applicants who submit proof of denial of eligibility to sit for the CGFNS examination and who are licensed in a country other than the United States or its territories if determined educationally prepared in nursing;~~ The Division may, upon recommendation from an approved credentials evaluation service, waive the requirement that the applicant pass the TOEFL examination if the applicant submits verification of the successful completion of a nursing education program conducted in English or the passage of an approved licensing examination given in English;

7) official transcripts of theory and clinical education prepared by an official of the military for a practical nurse applicant who has received his/her education in the military service. Education must meet the standards for education as set forth in Section 1300.40;

8) verification of licensure status from the jurisdiction in which the applicant was originally licensed, current licensure and any other jurisdiction in which the applicant has been actively practicing within the last 5 years; and

9) a certified translation for all credentials of education and licensure, if not in English.

b) After filing the original application, any change of name must be supported by an affidavit satisfactory to the Division~~Department~~.

c) Deficiencies in nursing theory and/or clinical practice may be removed by taking the required courses in an approved nursing education program.

d) Compliance with the provisions of Section 1300.25(b)(3) and (c)(3) for each registered professional nurse applicant and each practical nurse applicant, respectively, shall be a requirement for Illinois nurse licensure by endorsement.

e) Eligibility for Practical Nurse Endorsement
A candidate who is unable to pass the registered professional nurse examination in another jurisdiction and is allowed to write the practical nurse examination in that jurisdiction and is subsequently licensed as a practical nurse in that jurisdiction is not eligible for endorsement in Illinois unless and until the candidate has graduated from an approved practical nursing education program.

f) Individuals applying for licensure by endorsement may apply to the Division~~Department~~, on forms provided by the Division~~Department~~, to receive a Temporary Endorsement Permit pursuant to Section 10-40 of the Act. The permit shall allow the applicant to work pending the issuance of a license by endorsement.

1) The temporary endorsement permit application shall include:

A) a completed, signed endorsement application, along with the

required endorsement licensure fee as set forth in Section 1300.15 of this Part. All supporting documents shall be submitted to the Division~~Department~~ before a permanent license by endorsement shall be issued;

B) photostatic copies of all current active nursing licenses and/or temporary permits/licenses from other jurisdictions. Current active licensure in at least one United States jurisdiction is required. Each applicant's license will be checked on the National Council Network (NCNET) disciplinary data bank to determine if any disciplinary action is pending on the applicant's file;

C) verification~~Verification~~ that fingerprints have been submitted to the Division~~Department~~ or the Illinois Department of State Police or its designated agent; and

D) the fee for a temporary permit as required in Section 1300.15 of this Part.

2) The Division~~Department~~ shall issue a temporary endorsement permit no later than 14 days after receipt of a completed application as set forth in subsection (f)(1).

3) Temporary permits shall be terminated upon:

A) the issuance of a permanent license by endorsement;

B) failure to complete the application process within 6 months from the date of issuance of the permit;

C) a finding by the Division~~Department~~ that the applicant has been convicted of any crime under the laws of any jurisdiction of the United States which is a:

i) felony;~~,~~ or

ii) misdemeanor directly related to the practice of nursing within the last 5 years;

D) a finding by the Division~~Department~~ that the applicant has had a

license or permit related to the practice of nursing revoked, suspended or placed on probation by another jurisdiction, if at least one of the grounds is substantially equivalent to grounds in Illinois, within the last 5 years; or

E) a finding by the Division~~Department~~ that the applicant does not meet the licensure requirements for endorsement as set forth in this Section. The Division~~Department~~ shall notify the applicant in writing of such termination.

4) The Division~~Department~~ shall notify the applicant by certified or registered mail of the intent to deny licensure pursuant to subsections (f)(3)(D) and (E) and/or Section 10-30 of the Act.

5~~4~~) A temporary permit shall be renewed beyond the 6-month period, upon recommendation of the Board and approval of the Director, due to hardship, defined as:

A) serving full-time in the Armed Forces;

B) an incapacitating illness as documented by a currently licensed physician;

C) death of an immediate family member; or

D) extenuating circumstances beyond the applicant's control as approved by the Director.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.35 Remedial Education

Pursuant to Section 10-30 of the Act, no applicant (unless licensed in another jurisdiction) shall be issued a license as a registered nurse or practical nurse unless he/she has passed the examination set forth in Section 1300.25 within 3 years after filing an application, unless the applicant submits proof of successful completion of the entire nursing education program or one of the following remedial nursing education requirements:

a) Registered nurse and practical nurse applicants licensed in another U.S. jurisdiction on the basis of successful completion of the national licensure

examination may complete the current nursing practice update course set forth in Section 1300.41.

b) Registered nurse applicants, not licensed in another jurisdiction, may enroll in an approved professional nursing education program's medical/surgical theory and clinical course that includes the content and clinical experiences as set forth in Appendix A (Minimal Skills List for Registered Nurses) and Appendix B (Minimal Assignment List for Registered Nurses) of this Part.

c) Practical nurse applicants, not licensed in another jurisdiction, may enroll in an approved practical nursing education program's medical/surgical theory and clinical course that includes the content and clinical experiences as set forth in Appendix C (Minimal Skills List for Licensed Practical Nurses) and Appendix D (Minimal Assignment List for Licensed Practical Nurses) of this Part.

d) Registered nurse applicants and practical nurse applicants may participate in an individual self-study plan developed by an approved nursing education program in Illinois that includes theory and coordinated clinical practice components.

1) The theory component shall have the following minimum components:

A) Assessment of theory learning needs through use of published tests measuring knowledge in medical/surgical nursing, growth and development across the life span and pharmacology;

B) Specification by a nursing education program of units of content, objectives and unit plans for study;

C) Documented hours equivalent to at least 48 contact hours of theory for registered nurse applicants and 32 contact hours of theory for licensed practical nurse applicants;

D) Use of a medical/surgical nursing text currently used in basic nursing education programs;

E) A means for demonstrating achievement of objectives.

2) The clinical practice component shall be sponsored by a nursing education program. The clinical practice experience shall include the following minimum components:

A) Assessment of skill learning needs, arranged by the applicant with the nursing education program prior to assignment to a unit of the institution;

B) Mastery of the registered nurse or practical nurse minimal skills set forth in Appendix A and C of this Part;

C) Clinical practice component of at least 96 contact hours for registered nurse applicants and 64 contact hours for licensed practical nurse applicants that includes the clinical practice experience set forth in Appendix B and D of this Part; and

D) Identification of a faculty member or registered nurse preceptor.

e) Registered nurse or licensed practical nurse applicants, taking a self-study course approved by another state board, shall have the course approved by the Division~~Department~~ in order for the course to be accepted. The clinical practice component of the course must be provided by an Illinois health care delivery institution and must incorporate the Division's~~Department's~~ minimal requirements for the clinical practice component. The nurse taking the course must make arrangements with the health care delivery institution for the clinical practice component and identification of a registered nurse preceptor.

f) Individuals may request a review~~,~~ by the Board~~ of Nursing,~~ of any other pertinent documents or training that are not set forth in this Section for approval as meeting these requirements.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.37 Nurse Externship

a) Each applicant for a nurse externship permit shall file a completed, signed application on forms supplied by the Division. The application shall include:

1) proof of graduation from a professional nursing educational program approved by the Division;

2) verification of licensure as a professional nurse in another state or territory of the United States and proof of an active and unencumbered license in all of the states or territories in which the applicant is licensed;

3) verification of an offer for employment in Illinois as a nurse extern and a copy of the written employment offer;

4) a letter of acceptance from the Bilingual Nurse Consortium course or other comparable course approved by the Division;

5) verification from the applicant's prospective employer stating that the prospective employer agrees to pay the full tuition for the Bilingual Nurse Consortium course or other comparable course approved by the Division;

6) proof of taking the Test of English as a Foreign Language (TOEFL) with a minimum passing score on the paper-based test of 560, computer-based test of 220, or internet-based test of 83;

7) proof that the applicant has not violated the provisions of Section 10-45 of the Act; and

8) the required externship permit fee as set forth in Section 1300.15.

b) The nurse extern must submit to the Division a mid-year exam as determined by the Bilinqual Nurse Consortium that demonstrates proficiency towards passing the NCLEX.

c) A nurse extern shall be issued only one permit which shall expire one calendar year after it is issued.

(Source: Added at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.40 Approval of Programs

a) Program Approval
Institutions desiring to establish a new nursing program that would lead to meeting requirements for licensure, change the level of educational preparation of the program, or establish an extension of an existing program shall:

1) Submit a letter of intent to the Division~~Department~~.

2) Provide a feasibility study to the Division~~Department~~, on forms provided by the Division~~Department~~, that includes, at least, documentation of:

A) Need for the program in the community;

B) Need for graduates of the proposed program;

C) Availability of students;

D) Impact on existing nursing programs in a 50 mile radius of the proposed program;

E) Potential for qualified faculty;

F) Adequacy of clinical practicum and academic resources;

G) Financial commitment to support the initial and continuing program;

H) Community support of the scope and philosophy of the program;

I) Authorization by the appropriate education agency of the State of Illinois; and

J) A timetable for development of the program and the intended date of the first class beginning.

3) Identify a qualified nurse administrator with a minimum of a master's degree in nursing and with experience as a nurse educator.

4) Submit 15 copies of curriculum proposal including:

A) Program philosophy and objectives;

B) A plan of organization that is logical and internally consistent;

C) Proposed plans of study including requisite and elective courses with rationale;

D) Course outlines or syllabi for all nursing courses;

E) Student handbook;

F) Faculty qualifications;

G) Instructional approaches to be employed;

H) Evaluation plans for faculty and students; and

I) Facilities and utilization plan. (A site visit will be conducted by the Division~~Department~~ prior to the program being approved.)

b) Continued Program Approval

1) Nursing education programs shall submit annual evaluation reports to the Division~~Department~~ on forms provided by the Division~~Department~~. These reports shall contain information regarding curriculum, faculty and students and other information as deemed appropriate by the Division~~Department~~.

2) Full routine site visits shall be conducted by the Division~~Department~~ for periodic evaluation. The visits will be utilized to determine compliance with the Act. Full routine site visits shall be announced. Unannounced site visits may be conducted when the Division~~Department~~ obtains evidence that would indicate the program is not in compliance with the Act or this Part.

3) A pass rate of graduates on the National Council Licensing Examination (NCLEX) shall be included in the annual evaluation of nursing education programs.

A) A pass rate of 75% of first time writers will be required for a school to remain in good standing.

B) A nursing education program having an annual pass rate of less than 75% of first time writers for one year will receive a written warning of noncompliance from the Division~~Department~~.

C) A nursing education program having an annual pass rate of less

than 75% of first time writers for 2 consecutive years will receive a site visit for evaluation and recommendation by the Division~~Department~~ and will be placed on probation for program revision in accordance with 68 Ill. Adm. Code 1110.

D) The nursing education program shall have 2 years to demonstrate evidence of implementing strategies to correct deficiencies and bring the pass rate in line with the 75% criteria.

E) If 2 years after implementing the strategies to correct deficiencies in the program the annual pass rate is less than 75%, the program will be reevaluated. The program will be allowed to continue to operate on a probationary status or will be disapproved and removed from the list of Illinois approved nursing programs in accordance with 68 Ill. Adm. Code 1110.

c) Major Curricular Revision
Nursing education programs desiring to make a major curricular revision, i.e.,~~:~~ addition or deletion of content,~~;~~ a substantive change in philosophy or conceptual framework,~~;~~ or length of program, shall:

1) Submit a letter of intent to the Division~~Department~~; and

2) Submit 15 copies of the proposed changes and new material to the Division~~Department~~, at least one term prior to implementation, for Board recommendation and Division~~Department~~ approval in accordance with the standards set forth in subsection (f).

d) Minor Curricular Revisions
Nursing education programs desiring to make curricular revisions involving reorganization of current course content but not constituting a major curriculum revision shall submit the proposed changes to the Division~~Department~~ in their annual report.

e) Organization and Administration

1) An institution responsible for conducting a nursing education program shall be authorized by the appropriate agency of the State of Illinois (e.g., Illinois Board of Higher Education, State Board of Education, Illinois Community College Board);

2) The relationship of the nursing education program to other units within the sponsoring institution shall be clearly delineated with organizational charts on file with the Division~~Department~~;

3) Nursing education programs shall have clearly defined lines of authority, responsibility and communication;

4) Student input into determination of academic policies and procedures, curriculum planning and evaluation of faculty effectiveness shall be assured as evidenced by information such as student membership on policy and evaluation committees, policy statements and evaluation procedures;

5) Nursing education program policies and procedures shall be in written form, congruent with those of the sponsoring institution, and shall be reviewed by members of the program on a regular schedule;

6) The philosophy, purpose, and objectives of the nursing education program shall be stated in writing and shall be consistent with the sponsoring institution and current social, nursing and educational trends and the Act.

f) Curriculum and Instruction

1) The curriculum shall be based upon the stated program purpose, philosophy and objectives;

2) Levels of progression in relation to the stated program objectives shall be established;

3) Coordinated clinical and theoretical learning experiences shall be consistent with the program objectives;

4) Curricular content shall reflect contemporary nursing practice encompassing major health needs of all age groups;

5) The entire curriculum shall be based on sound nursing, education and instructional principles;

6) The curriculum may include a Nursing Student Internship/Cooperative

Education Course that meets the following minimum requirements:

A) The course must be available with the nursing major and identified on the transcript.

B) Faculty must meet approved nursing education program qualifications and hold faculty status with educational unit.

C) Clinical content must be coordinated with theoretical content.

D) Clinical experience must be under direct supervision of qualified faculty as set forth in subsection (g) or with a registered nurse preceptor. The nurse preceptor shall be approved by the program and shall work under the direction of a nurse faculty member.

E) Students shall not be permitted to practice beyond educational preparation or without faculty supervision.

F) Course shall be based on program purpose philosophy, objectives and framework.

G) Course evaluation shall be consistent with plan for program evaluation.

H) Articles of affiliation shall clearly delineate student, educational institution and health care agency roles and responsibilities;

7) The curriculum shall be evaluated by faculty with student input according to a stated plan;

8) The program shall be approved by the appropriate educational agency;

9) Curriculum for professional nursing programs shall:

A) Include, at a minimum, concepts in anatomy, physiology, chemistry, physics, microbiology, sociology, psychology, communications, growth and development, interpersonal relationships, group dynamics, cultural diversity, pharmacology and the administration of medication, nutrition and diet therapy, patho-physiology, ethics, nursing history, trends and theories,

professional and legal aspects of nursing, leadership and management in nursing, and teaching-learning theory;

B) Not preclude a flexible curriculum that would provide appropriate integration of the nursing subject matters;

C) Provide theoretical and clinical instruction in all areas of nursing practice in the promotion, prevention, restoration, and maintenance of health in individuals and groups across the life span and in a variety of clinical settings;

D) Incorporate the nursing process as an integral part of the curriculum;

E) Prepare the student to assume beginning level professional nursing positions;

F) Be at least 2 academic years in length;

G) Prepare the professional nurse to start intravenous therapy;

10) Curriculum for the practical nursing programs shall:

A) Include, at a minimum, basic concepts of anatomy, physiology, chemistry, microbiology, physics, communications, growth and development, interpersonal relationships, psychology, sociology, cultural diversity, pharmacology (pharmacology course standards are set forth in Section 1300.44), nutrition and diet therapy, vocational, legal and ethical aspects of nursing;

B) Not preclude a flexible curriculum that would provide appropriate integration of the nursing subject areas;

C) Provide basic theoretical and clinical instruction in all areas of nursing practice in the promotion, prevention, restoration, and maintenance of health in individuals and groups across the life span and in a variety of clinical settings;

D) Incorporate the nursing process as an integral part of the curriculum;

E) Prepare the student to assume entry level practical nursing positions to assist clients with normal and common health problems through use of basic nursing skills;

F) Be at least one academic year in length; and

G) If a military program, consist of a minimum of 36 to 40 weeks of theory and clinical instruction incorporating the curriculum as outlined in subsection (f)(10)(A).

g) Faculty

1) The institution responsible for conducting the nursing program and the Nurse Administrator of the nursing education program shall be responsible for ensuring that the individual faculty members are academically and professionally qualified.

2) Nursing education programs shall be administered by the Nurse Administrator of the nursing education program.

3) The Nurse Administrator and faculty of a nursing education program shall be currently licensed as registered professional nurses in Illinois.

4) The Nurse Administrator of a nursing education program shall have at least:

A) 2 years experience in clinical nursing practice;

B) 2 years of experience as an instructor in a nursing education program; and

C) a master's degree or higher with a major in nursing.

5) Nurse faculty of a professional nursing program shall have:

A) At least 2 years experience in clinical nursing practice;

B) A master's degree or higher with a major in nursing.

6) Nurse faculty of a practical nursing program shall have:

A) At least 2 years experience in clinical nursing practice; and

B) A baccalaureate degree or higher with a major in nursing.

7) The requirements of subsections (g)(4), (5) and (6) shall not affect incumbents as of the original date these requirements were adopted, January 14, 1980.

8) Nurse Administrators of nursing education programs shall be responsible for:

A) Administration of the nursing education program;

B) Liaison with other units of the sponsoring institution;

C) Preparation and administration of the budget;

D) Facilitation of faculty development and performance review;

E) Facilitation and coordination of activities related to academic policies, personnel policies, curriculum, resource facilities and services, and program evaluation;

F) Notification to the Division~~Department~~ of program changes.

9) Faculty shall be responsible for:

A) Development, implementation and evaluation of the purpose, philosophy and objectives of the nursing education program;

B) Design, implementation and evaluation of curriculum for the nursing education program;

C) Participation in academic advising of students;

D) Development and evaluation of student policies; and

E) Evaluation of student performance in meeting the objectives of the

program.

10) Faculty shall participate in:

A) Selection, promotion and tenure activities;

B) Academic activities of the institution;

C) Professional and health related community activities;

D) Self-development activities for professional and personal growth;

E) Research and other scholarly activities for which qualified; and

F) Activities that maintain educational and clinical expertise in areas of teaching.

11) Clinical experience must be under direct supervision of qualified faculty as set forth in this subsection (g) or with a registered nurse preceptor The nurse preceptor shall be approved by the parent institution and shall work under the direction of a nurse faculty member.

12) The ratio of students to faculty in the clinical area shall be appropriate to the clinical learning experience:

A) When under direct supervision of the faculty, the ratio shall not exceed 10 to 1.

B) When a registered nurse preceptor is used, the ratio of students to faculty member shall not exceed 12 to 1.

h) Financial Support, Facilities, Records

1) Adequate financial support for the nursing education program, faculty and other necessary personnel, equipment, supplies and services shall be in evidence in the program budget.

2) The faculty of the nursing education program and the staff of cooperating agencies used as sites for additional theory and clinical experience shall work together for quality of patient care.

3) Articles of Affiliation

A) The nursing education program shall have Articles of Affiliation between the nursing education program and each clinical facility that define the rights and responsibilities of each party, including agreements on the role and authority of the governing bodies of both the clinical site and the nursing education program.

B) If portions of the required clinical or theoretical curriculum are offered at different geographical sites or by distance learning, the curriculum must be planned, supervised, administered and evaluated in concert with appropriate faculty committees, department chairmen and administrative officers of the parent school.

4) There shall be adequate facilities for the nursing program for both academic and clinical experiences for students.

5) There shall be access to learning resource facilities, including library and multi-media technology, that are reasonably sufficient for the curriculum and the number of students enrolled in the nursing education programs.

6) Cooperating agencies shall be identified to the Division~~Department~~ and shall be suitable to meet the objectives of the program.

7) Addition or deletion of cooperating agencies shall be reported in writing to the Division~~Department~~ on the program annual report.

8) The nursing program's policies and procedures shall not violate constitutional rights and shall be written and available to faculty and students.

9) Permanent student records that summarize admissions, credentials, grades and other records of performance shall be maintained by the program.

i) Faculty Variance

1) Variances for faculty with a graduate degree in a field other than nursing will be granted based on the following:

A) the individual has a bachelor's degree in nursing;

B) the individual has at least two years of experience in clinical nursing practice;

C) the individual has a degree in a field that directly relates to the course he or she will be teaching;

D) at least 80% of the school's undergraduate nursing faculty holds a master's degree in nursing.

2) Variances for faculty without a graduate degree will be granted based on the following~~The nursing program may request a variance for a faculty member who has not received a master's degree if~~:

A) the faculty member is within one year of completion of the master's in nursing;

B) the faculty member is continuously enrolled in the master's in nursing program;

C) a plan exists for the timely completion of the master's program; and

D) at least 80% of the school's undergraduate nursing faculty holds a master's degree in nursing~~no other faculty members are teaching with a current variance~~.

3)~~2)~~ A school that has received a variance must notify the Board of any changes related to that faculty member, including notification that the faculty member has received the graduate degree.~~The Board of Nursing will consider each request for a variance and if a variance is granted the nursing program shall be placed on probation until the faculty member has completed the master's degree. A variance will be granted for one year and consecutive variances will not be granted to any program.~~

j) Discontinuance of a Nursing Program

1) A nursing education program shall:

A) Notify the Division~~Department~~, in writing, of its intent to discontinue its program;

B) Continue to meet the requirements of the Act and this Part until the official date of termination of the program;

C) Notify the Division~~Department~~ of the date on which the last student will graduate and the program terminate; and

D) Assume responsibility for assisting students to continue their education in the event of closing of the school prior to the final student graduating.

2) Upon closure of the nursing education program, the institution shall notify the Division~~Department~~, in writing, of the location of student and graduate records storage.

k) Disapproval of a Program

1) The following are grounds for disapproval of a nursing education program:

A) A violation of any provision of the Act;

B) Fraud or dishonesty in applying for approval of a nursing education program;

C) Failure to continue to meet criteria of an approved nursing education program as set forth in this Section; or

D) Failure to comply with recommendations made by the Division~~Department~~ as a result of a site visit.

2) Upon written notification of the Division's~~Department's~~ proposed action, the nursing education program may:

A) Submit a written response;

B) Request a hearing before the Board.

l) Out-of-state Education Programs Seeking Student Nurse Clinical Placement in Illinois

1) Out-of-state nursing education programs offering clinical experiences in Illinois are expected to maintain the standards for approved nursing education programs set forth in this Section.

2) Programs desiring to seek approval for student nurse clinical placement in Illinois shall submit the following documents:

A) Evidence of approval/accreditation by the Board of Nursing or other appropriate approval bodies in the state in which the institution is located.

B) A letter requesting approval to provide the clinical offering that indicates the time-frame during which the clinical experience will be conducted, the clinical agencies and the clinical units to be utilized.

C) A course syllabus for the clinical experiences to be offered that specifies the related objectives of the offering.

D) A copy of the executed contractual agreement between the academic institution and the clinical facility.

E) A faculty qualification and/or preceptor form for individuals providing instruction in Illinois.

3) Faculty

A) The institution responsible for conducting the nursing program and the administrator of the nursing education program shall be responsible for ensuring that the individual faculty members are academically and professionally qualified.

B) Nurse faculty of a professional nursing program shall have:

i) at least 2 years experience in clinical nursing practice; and

ii) a master's degree or higher with a major in nursing.

C) Nurse faculty of a practical nursing program shall have:

i) at least 2 years experience in clinical nursing practice; and

ii) a baccalaureate degree or higher with a major in nursing.

D) The faculty shall be currently licensed as registered professional nurses in Illinois.

E) Clinical experience must be under direct supervision of qualified faculty as set forth in subsection (g) or with a registered nurse preceptor. The nurse preceptor shall be approved by the parent institution and shall work under the direction of a nurse faculty member.

F) The ratio of students to faculty in the clinical area shall be appropriate to the clinical learning experience.

i) When under direct supervision of the faculty, the ratio shall not exceed 10 to 1.

ii) When a registered nurse preceptor is used, the ratio of students to faculty member shall not exceed 12 to 1.

4) Approval for clinical offerings by out-of-state nursing programs shall be approved for a period of 2 years. A program representative may request renewal of the approval every 2 years. In order to renew, the program shall submit a written report that provides updated and current data as required by this subsection (l).

5) A written report of current clinical offerings and current data shall be submitted to the Division~~Department~~ annually. Faculty qualification and preceptor forms shall be submitted when instructors are added or changed.

6) Failure to comply with the requirements set forth in this Part shall result in the immediate withdrawal of approval of the clinical experience offering.

m) If the name of the program is changed or the institution in which the program is

located or with which it is affiliated changes its name, the program shall notify the Division~~Department~~ within 30 days after the name change. If the Division~~Department~~ is not notified within the 30 days, the program's approval may be withdrawn.

n) The Division~~Department~~ has determined that nurse programs approved through the National League of Nursing or the Commission on Collegiate Accreditation meet the requirements set forth in this Section, except for those programs whose curriculums do not include a concurrent theory and clinical practice education component as required by Section 10-35 of the Act.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.41 Approval of Current Nursing Practice Update Course

a) A current nursing practice update course (the "course") is a planned educational offering which provides an updating of content specifically designed for registered and/or practical nurses preparing to re-enter nursing practice.

b) To be approved by the Division,~~Department~~ a course shall meet the following minimum requirements:

1) The sponsoring institution must have access to adequate facilities and resources to implement both the required theoretical and clinical components of the course.

2) The course shall be conducted by:

A) a coordinator with a baccalaureate major in nursing and two years of current clinical experience in nursing practice;

B) faculty with 2 years of current clinical experience in nursing who have demonstrated competency in teaching/learning. This experience may be either from academics or work experience (i.e., coursework, staff development, nursing faculty of an approved nursing program).

3) The course must be based on clearly stated objectives which are realistic for the time allotted in the course, appropriate for the course content, and includes both theoretical and clinical practice expectations as set forth in

Appendices A, B, C and D.

4) The nursing content shall provide information on the Act and this Part, the American Nurses' Association (ANA) Standards of Practice, the ANA Code of Ethics, current opportunities for nursing practice, and current climate for practice, and nursing process.

5) Course content must be based on current nursing care concepts and skills relevant to the audience for which it is intended, registered nurse or licensed practical nurse.

6) The course shall include both planned and supervised clinical experiences and theoretical content consistent with the stated course objectives.

7) The theory component for registered nurses shall be at least 48 contact hours and for licensed practical nurses at least 32 contact hours.

8) The clinical component for registered nurses shall be at least 96 contact hours and for licensed practical nurses at least 64 contact hours.

c) Any institution desiring to have its courses~~courses(s)~~ approved by the Division~~Department~~ shall file with the Division~~Department~~ at least 12~~twelve~~ weeks prior to anticipated implementation 15 copies of all relevant information bearing on its compliance with the above criteria plus the following:

1) The name of the sponsoring institution;

2) The name of the designated course coordinator responsible for the course and a brief summary of the individual's qualifications;

3) A list of the members of the educational staff, their qualifications for teaching the courses~~course(s)~~ and their responsibilities.

d) The Board shall evaluate the submitted materials at its next regularly scheduled meeting, at which time the course coordinator from the applying sponsoring institution may make an oral presentation. The Board shall make a recommendation to the Director for approval or disapproval and the Division~~Department~~ will notify the sponsoring institution of its decision.

e) The course shall be reevaluated every five years.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.42 Standards of Professional Conduct for Registered Professional Nurses

a) The Registered Professional Nurse shall:

1)~~a)~~ Practice in accordance with the Act and this Part;

2)~~b)~~ Uphold federal and State regulations regarding controlled substances and alcohol;

3)~~c)~~ Practice nursing only when in functional physical and mental health;

4)~~d)~~ Be accountable for his or her own nursing actions and competencies;

5)~~e)~~ Practice or offer to practice only within the scope permitted by law and within the licensee's own educational preparation and competencies.

6)~~f)~~ Seek instruction and supervision from qualified individuals when implementing new or unfamiliar nursing activities;

7)~~g)~~ Delegate tasks only to individuals whom the licensee knows or has reason to know are competent by education or experience to perform those tasks;

8)~~h)~~ Delegate professional responsibilities only to individuals whom the licensee knows or has reason to know are licensed to perform;

9)~~i)~~ Be accountable for the quality of nursing care delegated to others;

10)~~j)~~ Report unsafe, unethical, or illegal health care practice or conditions to appropriate authorities;

11)~~k)~~ Assume responsibility for continued professional growth and education to reflect knowledge and understanding of current nursing care practice.

b)~~l)~~ Violations of this Section may result in discipline as specified in Section 10-45 of the Act. All disciplinary hearings shall be conducted in accordance with 68 Ill. Adm. Code 1110.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.43 Standards of Professional Conduct for Licensed Practical Nurses

a) The Licensed Practical Nurse shall:

1)~~a)~~ Practice in accordance with the Nursing and Advanced Practice Nursing Act and this Part;

2)~~b)~~ Uphold federal and State regulations regarding controlled substances and alcohol;

3)~~c)~~ Practice nursing only when in functional physical and mental health;

4)~~d)~~ Be accountable for his or her own nursing actions and competencies;

5)~~e)~~ Practice or offer to practice only within the scope permitted by law and within the licensee's own educational preparation and competencies;

6)~~f)~~ Perform nursing actions only under direction except as stated in the Act in the event of an emergency in which an individual's life or health are in imminent danger;

7)~~g)~~ Seek instruction and supervision from qualified individuals when implementing new or unfamiliar nursing activities;

8)~~h)~~ Report unsafe, unethical and illegal health care practice or conditions to appropriate authorities;

9)~~i)~~ Assume responsibility for continued professional growth and education to reflect knowledge and understanding of current nursing care practice;

b)~~j)~~ Violations~~Violation(s)~~ of this Section may result in discipline as specified in Section 10-45 of the Act. All disciplinary hearings shall be conducted in accordance with 68 Ill. Adm. Code 1110.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.44 Standards for Pharmacology/Administration of Medication Course for Practical Nurses

a) Approved licensed practical nursing programs shall include a course designed to educate practical nursing students and/or licensed practical nurses to administer medications via oral, topical, subcutaneous, intradermal and intramuscular routes under the direction of a registered professional nurse, licensed physician, or licensed dentist that contains the following minimum components:

1) Prerequisites

A) Basic computational math and high school algebra with proficiency in the following concepts, including, but not limited to, ratios and proportions and metric, apothecary and household measurements as documented via examination and/or coursework completed.

B) Basic scientific knowledge, including, but not limited to, microbiology/asepsis and anatomy and physiology with a basic understanding of fluid and electrolytes, the inflammatory response, the immune response, and body systems as documented via examination or coursework.

2) Pharmacology

A) An introduction to pharmacology including the areas of:

i) Terminology and abbreviations

ii) Federal and State laws related to pharmacology (e.g., Illinois Controlled Substances Act [720 ILCS 570]; federal Food, Drug and Cosmetic Act (21 USC 360))

iii) Drug standards and references (i.e., United States Pharmacopoeia/National Formulary)

iv) Generic versus brand name drugs

v) Misuse/abuse of drugs

B) Classifications of drugs (with commonly used examples) including:

i) Action/Physiological effect

ii) Interactions

iii) Side effects and contraindications

iv) Dosages and routes

v) Nursing implications (including legal implications)

3) Administration of Medication

A) Following procedures of safety as described in subsections (a)(3)(C), (D), (E), and (F) in administering medications.

B) Developmental adaptations for administering medications to patients of all ages.

C) Assessment of patient condition.

D) Planning for administration of medication including:

i) Checking for doctor's order

ii) Securing proper equipment

iii) Verifying proper packaging of medication

E) Implementation of administration of medication including:

i) Site selection

ii) Verifying route of administration

iii) Administering the medication

iv) Recording medication administration

v) Patient education for compliance

F) Evaluation of patient response including:

i) Effects/side effects/allergic responses

ii) Recording/reporting of effects

b) These requirements shall not preclude a flexible curriculum that would provide appropriate integration into other practical nursing courses.

c) The course/instruction shall include at least 32 hours of theory and 64 hours of lab and clinical with administration of medication to patients performed under direct supervision of qualified faculty as set forth in subsection (d) of this Section.

d) Nurse faculty of pharmacology and administration of medication courses shall have:

1) At least two years experience in clinical nursing practice;

2) A baccalaureate degree with a major in nursing;

3) A current Illinois Registered Professional Nurse license.

e) Approved licensed practical nursing programs shall include a curriculum designed to educate practical nursing students and/or licensed practical nurses to perform the following activities related to intravenous therapy under the supervision of a registered professional nurse, licensed physician, or licensed dentist:

1) Monitoring the flow rate of existing intravenous lines.

2) Regulating peripheral fluid infusion rates.

3) Observing sites for local reaction and reporting results to the registered nurse.

4) Discontinuing intravenous therapy with an order from a physician.

5) Adding non-medicated solutions to existing patent lines.

6) Changing peripheral intravenous tubings and dressings.

7) Monitoring existing transfusions of blood and blood components.

8) Documenting intravenous procedures performed and observations made.

Practical nursing programs have until August 2000 to add the intravenous therapy content set forth in this subsection (e) to the nursing program's~~their~~ curriculum.

f) This curriculum may prepare the licensed practical nurse to start intravenous therapy.

g) The curriculum shall not include the following procedures:

1) Administering chemotherapeutic agents via intravenous routes.

2) Starting or adding blood or blood components.

3) Administering medications via intravenous push.

4) Adding medication to existing intravenous infusions, including heparin in heparin locks.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.45 Renewals

a) Every license issued under the Act shall expire on May 31 of each even numbered year for Registered Professional Nurse and on January 31 of each odd numbered year for Licensed Practical Nurse. The holder of a license may renew such license during the month preceding the expiration date thereof by paying the required fee.

b) It is the responsibility of each licensee to notify the Division~~Department~~ of any change of address. Failure to receive a renewal form from the Division~~Department~~ shall not constitute an excuse for failure to pay the renewal fee.

c) Practice on a license which has expired is the unlicensed practice of nursing and shall be grounds for discipline pursuant to Section 25 of the Act.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.48 Restoration

a) A licensee seeking restoration of a license that has expired for 5 years or less shall have the license restored upon payment of the fees required by Section 1300.15 of this Part.

b) A licensee seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee set forth in Section 1300.15(b) of this Part.

c) A licensee seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division~~Department~~, together with the restoration fee~~fee(s)~~ specified in Section 1300.15(c)(1) of this Part, when restoring an expired license, or the current renewal fee set forth in Section 1300.15(b), when restoring an inactive license. The licensee shall also submit proof of fitness to practice, which includes one of the following:

1) Certification of active practice in another jurisdiction. Such certification shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice; or

2) An affidavit attesting to military service as provided in Section 20-10 of the Act. If application is made within 2 years after discharge, and if all other provisions of Section 20-10 of the Act are satisfied, the applicant will be required to pay the current renewal fee; or

3) Proof of successful completion of a current nursing practice update course within the last year, which shall include evaluated clinical experience, approved by the Division~~Department~~, as specified in Section 1300.41 of this Part; or

4) Proof of satisfactory completion of a medical-surgical nursing theory and clinical course in a nursing education program within the last year as defined in Section 1300.40 of this Part for practical or registered nurse licensure, consistent with the license which the individual is seeking to restore; or

5) Proof of satisfactory completion of a course within the last year that includes:

A) A self-study nursing theoretical component that is:

i) Approved by another state nursing licensing authority and includes medical-surgical nursing across the life span and consists of a minimum of 36 hours for practical nurses or 48 hours for registered nurses; or

ii) Approved by the Division~~Department~~ and contains assessment of theoretical and skill learning needs, a plan for content with objectives and a plan for documentation of successful completion; and

B) A clinical practice component that includes:

i) Sponsorship by a health care delivery institution or nursing education program that meets the requirements set forth in Section 1300.41 of this Part;

ii) A minimum 96 hours for registered nurses and 64 hours for practical nurses of supervised patient care with progressive activities;

iii) Completion of the minimal skills list provided by the Division~~Department~~; and

iv) Identification of a registered nurse preceptor.

d) A~~The~~ licensee seeking restoration shall also submit verification of fingerprint processing from the Illinois Department of State Police, or its designated agent. Licensees shall contact the Illinois Department of State Police, or its designated agent, for fingerprint processing. Out-of-state residents unable to utilize the State Police fingerprint process may submit to the Division~~Department~~ one set of fingerprint cards issued by the Illinois Department of State Police and one set of fingerprint cards issued by the Federal Bureau of Investigation, accompanied by the specified processing fee pursuant to Section 1240.205. Fingerprints shall be taken within 60 days after~~of~~ application.

e)~~d)~~ Individuals applying for licensure by restoration may apply to the Division~~Department~~, on forms provided by the Division~~Department~~, to receive a Temporary Restoration Permit that allows~~. Such permit shall allow~~ the applicant to work pending the issuance of a license by restoration.

1) The temporary restoration permit application shall include:

A) A completed signed restoration application, along with the required restoration licensure fee as set forth in Section 1300.15 of this Part. All supporting documents shall be submitted to the Division~~Department~~ before a permanent license by restoration shall be issued;

B) Either:

i) Photostatic copies of all current active nursing licenses and/or temporary permits/licenses from other jurisdictions (current active licensure in at least one United States jurisdiction is required); or

ii) Verification of employment in nursing practice within the last 5 years in a United States jurisdiction;

C) Verification that fingerprints have been submitted to the Division~~Department~~ or the Illinois Department of State Police or its designated agent; and

D) The temporary restoration permit fee as required in Section 1300.15 of this Part.

2) The Division~~Department~~ shall issue a temporary restoration permit no later than 14 days after receipt of a completed application as set forth in subsection (d)(1)~~ above~~.

3) Temporary permits shall be terminated upon:

A) The issuance of a permanent license by restoration;

B) Failure to complete the application process within 6 months from

the date of issuance of the permit;

C) A finding by the Division~~Department~~ that the applicant has been convicted of any crime under the laws of any jurisdiction of the United States which is a:

i) Felony;~~,~~ or

ii) Misdemeanor directly related to the practice of nursing within the last 5 years;

D) A finding by the Division~~Department~~ that the applicant has had a license or permit related to the practice of nursing revoked, suspended or placed on probation by another jurisdiction, if at least one of the grounds is substantially equivalent to grounds in Illinois, within the last 5 years; or

E) The Division~~Department~~ shall notify the applicant by certified or registered mail of the intent to deny licensure pursuant to subsections (e)~~(d)~~(3)(C) and (D)~~ above~~ and/or Section 10-45 of the Act.

4) A temporary permit shall be extended beyond the 6-month period, upon recommendation of the Board and approval of the Director, due to hardship as defined below:

A) Serving full-time in the Armed Forces;

B) An incapacitating illness as documented by a currently licensed physician;

C) Death of an immediate family member; or

D) Extenuating circumstances beyond the applicant's control as approved by the Director.

f)~~e)~~ When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Division~~Department~~ because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee will be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an oral interview before the Board to explain such relevance or sufficiency, clarify information, or clean up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Division~~Department~~, an applicant shall have the license restored.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.50 Granting Variances

a) The Director may grant variances from this Part in individual cases when~~where~~ he or she finds that:

1) the provision from which the variance is granted is not statutorily mandated;

2) no party will be injured by the granting of the variance; and

3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the Board ~~of Nursing~~ of the granting of the~~such~~ variance, and the reasons for granting the variance~~therefor~~, at the next meeting of the Board.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.60 Practice of Nursing

a) Purpose of Standards

1) To establish minimal acceptable levels of safe practice by the Registered Nurses and Licensed Practical Nurses.

2) To serve as a guide for the Board to evaluate nursing care to determine if it is safe and effective and within the appropriate scope of practice.

b) Standards Related to the Registered Nurse's Responsibility to Implement the

Nursing Process
It is not always possible to document complete information in all areas listed in this subsection (b)~~below~~ on each patient. However, nurses should be held accountable for the thorough data collection within the constraints of available information. The Registered Nurse shall:

1) Conduct and document nursing assessments of the health status of individuals and groups.

2) Establish and document nursing problems that~~which~~ serve as the basis for the nursing plan.

3) Develop the nursing plan based on assessment and nursing problem identification. This includes:

A) Identifying priorities in the nursing plan.

B) Setting realistic and measurable goals.

C) Prescribing nursing interventions~~intervention(s)~~.

4) Implement the nursing plan through giving and delegating direct care.

5) Evaluate the responses of individuals or groups to nursing interventions and redirect the care plan on the evaluation findings.

6) Communicate evaluation data to appropriate members of the health care team.

c) Standards Related~~related~~ to the Licensed Practical Nurse's Contribution~~contribution~~ to the Responsibility~~responsibility~~ for the Nursing Process~~nursing process~~
The licensed practical nurse, under the direction or supervision of a registered nurse, licensed physician, dentist, or podiatrist, shall:

1) Participate in assessment by observing, collection, recording and reporting:

A) Objective and subjective data in an accurate and timely manner;

B) The condition and/or change in condition of the patient; and

C) Signs and symptoms of deviation from normal health status.

2) Assist in developing the nursing care plan.

3) Assist in the implementation of nursing care:

A) Within the concepts included in the practical nursing curriculum as set forth in Section 1300.40(f) of this Part;

B) With consideration for safety in practice;

C) According to established priorities of needs; and

D) Documenting and communicating nursing interventions and responses to care.

4) Assist in evaluating patient responses:

A) Document and communicate evaluation data to appropriate members of the health care team.

B) Contribute to the modification of the nursing plan on the basis of the evaluation.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.65 Unethical or Unprofessional Conduct in Nursing Practice

a) The Division~~Department~~ may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action based upon its findings of "unethical or unprofessional conduct" within the meaning of Section 10-45 of the Act, which is interpreted to include, but is not limited to, the following acts or practices:

1) Engaging in conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient. Actual injury need not be established.

2) A departure from or failure to conform to the standards of professional or practical nursing as set forth in the Act or this Part, or any nursing practice that may create unnecessary danger to a patient's life, health or safety. Actual injury to a patient need not be established.

3) Engaging in behavior that crosses professional boundaries (such as signing wills or other documents not related to client health care).

4) Engaging in sexual conduct with a patient, or conduct that may reasonably be interpreted by a patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient.

5) Demonstrating actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition.

6) Failing to report incompetent, unethical, or illegal practice of another health care provider.

b) The Division~~Department~~ hereby incorporates by reference the "Code for Nurses with Interpretive Statements", 1985, American Nurses Association, 600 Maryland Avenue, Suite 100 West, Washington, D.C. 20024-2561, with no later amendments or editions.

c) The Division~~Department~~ hereby incorporates by reference the "Code of Ethics", National Association for Practical Nurse Education and Service, Inc., 1991, 1400 Spring Street, Suite 330, Silver Spring, Maryland 20910, with no later amendments or editions.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.70 Fines

a) In accordance with Section 25 of the Act, fines shall be imposed in conjunction with other forms of disciplinary action only in instances where the nurse has received monetary gain. In determining the amount of the fine, the Division~~Department~~ shall consider, but not be limited to, the following factors:

1) the amount of financial gain, including fees not paid for unlicensed

practice;

2) facts of the individual case;

3) any disciplinary history of the individual relating to monetary gain.

b) The Division~~Department~~ shall maintain a record to document the use of fines, type of case and the amount of fine.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

Section 1300.75 Refusal to Issue a Nurse License Based on Criminal History Record

a) For purposes of this Part, criminal history record information is defined as information collected by criminal justice agencies (defined in 20 ILCS 2630) on individuals consisting of identifiable descriptions and notation of arrests, detention, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. The individual records must contain both information sufficient to identify the subject of the record and notations regarding any formal criminal justice transaction involving the identified individual.

b) In determining whether an applicant for a nurse license is unfit for licensure because of criminal history record information, the Division~~Department~~ shall consider the following standards:

1) Whether the crime was one of armed violence [720 ILCS 5/Art. 33A] or moral turpitude. Moral turpitude consists of:

A) Crime involving dishonesty, false statement or some other element of deceit, untruthfulness or falsification (including but not limited to perjury, inducement of perjury, false statement, criminal fraud, embezzlement, false pretense, forgery, counterfeiting and theft).

B) Drug offenses including but not limited to violations of the Illinois Controlled Substances Act [720 ILCS 570/Art. I] and Federal Drug Enforcement Laws (21 USC 801 et seq.).

C) Sex offenses including but not limited to all crimes listed in Article 11 of the Criminal Code of 1961 [720 ILCS 5/Art. 11].

2) Whether the crime is related to the nursing profession.

3) Whether more than 10 years have elapsed since the date of completion of imposed sentence.

4) Whether the conviction was from a city ordinance violation or a conviction for which a jail sentence was not imposed.

5~~a~~) Whether the applicant has been sufficiently rehabilitated to warrant the public trust. The Division~~Department~~ shall consider, but not be bound by, the following in considering whether an applicant has been presumed to be rehabilitated:

A) Completion of probation;

B) Completion of parole supervision; or

C) If no parole was granted, a period of 10 years has elapsed after final discharge or release from any term of imprisonment without any subsequent conviction.

c) If any one of the following factors exists, this outweighs the presumption of rehabilitation as defined in subsection (b):

1) Lack of compliance with terms of punishment (i.e., failure to pay fines or make restitution, violation of the terms of probation or parole);

2) Unwillingness to undergo, or lack of cooperation in, medical or psychiatric treatment/counseling;

3) Falsification of an application for licensure with the Division~~Department~~;

4) Failure to furnish to the Division~~Department~~ additional information or failure to appear for an interview or meeting with the Division~~Department~~ in relation to the applicant's application for licensure.

d) The following criminal history records shall not be considered in connection with an application for licensure:

1) Juvenile adjudications;

2) Records of arrest not followed by a conviction;

3) Convictions overturned by a higher court;

4) Convictions that have been the subject of a pardon or expungement.

e) Notification of denial, revocation, suspension, or intent to refuse to renew; request for hearing

1) If the determination is made that the applicant is unfit for licensure, the Division~~Department~~ shall send notice of denial, revocation, suspension, or intent to refuse to renew by certified mail, return receipt requested, to the applicant at the applicant's last known address or by personal delivery to the applicant. All such notices will include a statement of the reason for the Division's~~Department's~~ action.

2) An applicant may request a hearing to contest the Division's~~Department's~~ action pursuant to 68 Ill. Adm. Code 1110. The request shall be in writing, and must be received by the Division~~Department~~ not later than 20 days after the date the Division~~Department~~ mailed or personally delivered the notice of its action to the applicant.

3) After receipt of a request for a hearing and prior to any such hearing, the Division~~Department~~ shall schedule an informal conference with the applicant in an attempt to resolve issues in controversy consensually. The Division~~Department~~ shall notify the applicant of the informal conference at least 20 days prior to the hearing. Failure by the applicant to attend the informal conference shall act as a withdrawal of the applicant's request for a hearing.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1300.APPENDIX A Minimal Skills List for Registered Professional Nurses

The minimal skills for registered professional nurses taking remedial education in accordance with Sections 1300.35 and 1300.41 are as follows:

a) Nursing Care Plan
Take a complete history and do a complete physical assessment, including all body systems, to develop a nursing care plan.

b) Standard Precautions and Infection Control
Demonstrate aseptic technique, isolation technique, reverse isolation technique and central line site care.

c) Medications
Demonstrate ability to calculate dosages. Prepare and administer oral, ear, eye, subcutaneous, intramuscular, Z-track (method of injection), and intradermal medications. Identify and utilize different types of needles, syringes, vials, ampules and tubex.

d) Intravenous (IV) Therapy
Set up equipment for starting an IV and demonstrate ability to start an IV. Demonstrate ability to start, stop and adjust intravenous pump. Demonstrate understanding of blood administration procedures and, if available, start a blood administration.

e) Fluids
Calculate intake and output for complex conditions: intravenous, hyperalimentation, bladder irrigations and nasogastric tube.

f) Cardiovascular System
Locate all pulses and demonstrate use of Doppler~~doppler~~. Set up the equipment for central line insertion.

g) Pulmonary System
Perform chest percussion, postural drainage and coughing. Demonstrate tracheostomy care and suctioning. Collect a sputum specimen. Monitor chest drainage and closed chest drainage systems. Transport patients with oxygen. Describe different types of oxygen administration equipment. Do preoperative teaching, including deep breathing, coughing and pursed lip breathing.

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h) Gastrointestinal System
Insert nasogastric tube. Administer tube feeding and medications by nasogastric tube. Identify ileostomy and colostomy appliances.

i) Genitourinary System
Identify types and general sizes of catheters. Describe procedure for male and female catheterization and do catheterization (if available). Set up post TUR irrigation and do post transuretheral resection (TUR) irrigation. Collect urine specimens.

j) Neurological and Musculoskeletal Systems
Demonstrate range of motion exercises and crutch walking. Demonstrate proper turning of patients, e.g.,~~such as~~ a hip replacement patient.

k) Endocrine System
Do self-monitoring of blood glucose.

l) Reproductive Systems
Perform episiotomy care.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

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NOTICE OF ADOPTED AMENDMENTS

Section 1300.APPENDIX B Minimal Assignment List for Registered Professional Nurses

The minimal assignments for registered professional nurses taking remedial education in accordance with Sections 1300.35 and 1300.41 are as follows:

a) For all clients
Review chart, interview patient, and develop nursing care plan utilizing acuity assessment and nursing diagnosis. Document the administration of medication (explaining intended effects, side effects, and potential interactions). Give total patient care within educational competencies under the supervision of a registered nurse preceptor.

b) Day 1
Orientation to hospital and unit, interview patient, review documentation, observe and discuss administration of medication methods and crash cart procedures. Analyze roles and identify nursing diagnoses.

c) Day 2
Provide care for two medical/surgical or orthopedic patients, focusing the care plan on developmental stage, stress and coping, and documentation. Identify and analyze strategies for own coping.

d) Day 3
Apply nursing process and develop nursing care plans for two patients with neurological or rehabilitative problems.

e) Day 4
Develop nursing care plans utilizing the nursing process for two patients needing care of catheters and measurement of output with corresponding documentation. Analyze fluid and electrolyte problems, explain significance of laboratory data, analyze status, apply nursing diagnosis, and document appropriately.

f) Day 5
Develop nursing care plans and provide care for three patients with diabetes mellitus or endocrine problems. Analyze nursing process and apply nursing diagnoses for these clients.

g) Day 6
Provide nursing care for two or three adults or children with cardiac and/or respiratory problems.

h) Day 7
Provide care to preoperative and postoperative patients, admissions and discharges.

i) Day 8
Provide care for three clients with mobility and diversionary needs.

j) Day 9-12
Perform delegation of procedures and/or tasks with a registered nurse preceptor present on unit (day or evening) shift. Prepare a self-evaluation and preceptor evaluation to determine successful completion of the clinical component.

k) Day 13

1) Conference with preceptor for discussion of self-evaluation and determining successful completion of the clinical component. The nurse taking the remedial education course shall take or be scheduled to take a test on the Act and this Part.

2) The preceptor will notify the Division~~Department~~ of the nurse's successful completion of the remedial education.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1300.APPENDIX C Minimal Skills List for Licensed Practical Nurses

The minimal skills for licensed practical nurses taking remedial education in accordance with Sections 1300.35 and 1300.41 are as follows:

a) Nursing Care Plan
Participate in the collection of data with the registered nurse to assist in developing a nursing care plan.

b) Standard Precautions and Infection Control
Demonstrate aseptic technique, isolation technique and reverse isolation technique.

c) Medications (administration under supervision of registered nurse)
Demonstrate ability to calculate dosages. Prepare and administer oral, ear, eye, subcutaneous, intramuscular, z-track (method of injection), and intradermal medications. Identify and utilize different types of needles, syringes, vials, ampules and tubex.

d) Intravenous (IV) Therapy (performed under supervision of registered nurse)
Set up equipment for starting an IV and demonstrate ability to adjust and stop intravenous pump. Hang intravenous fluids and calculate rate. Discontinue fluids.

e) Fluids
Calculate intake and output for complex conditions: monitor intravenous, hyperalimentation, bladder irrigations and nasogastric tube.

f) Cardiovascular System
Locate all pulses and demonstrate use of Doppler~~doppler~~.

g) Pulmonary System
Perform chest percussion, postural drainage and coughing. Demonstrate tracheostomy care and suctioning. Collect a sputum specimen. Monitor chest drainage. Transport patients with oxygen. Describe different types of oxygen administration equipment. Do preoperative teaching, including deep breathing, coughing and pursed lip breathing.

h) Gastrointestinal System
Insert nasogastric tube. Administer tube feeding and medications by nasogastric tube. Identify ileostomy and colostomy appliances.

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i) Genitourinary System
Identify types and general sizes of catheters. Describe procedure for male and female catheterization and do catheterization (if available). Set up post TUR irrigation and do post transurethral resection (TUR) irrigation. Collect urine specimens.

j) Neurological and Musculoskeletal Systems
Demonstrate range of motion exercises and crutch walking. Demonstrate proper turning of orthopedic patients, e.g., a hip replacement~~such as~~ patient~~ recuperating after a hip replacement~~.

k) Endocrine System
Do self-monitoring of blood glucose.

l) Reproductive Systems
Perform episiotomy care.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

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Section 1300.APPENDIX D Minimal Assignment List for Licensed Practical Nurses

The minimal assignment for licensed practical nurses taking a remedial education course set forth in Section 1300.45 are as follows:

a) For All Clients
Review chart, collect patient data and assist the registered nurse in development of the nursing care plan. Document the administration of medication (explaining intended effects, side effects, and potential interactions). Give total patient care within educational competencies under the supervision of a registered nurse preceptor.

b) Day 1
Orientation to hospital and unit, collect patient data, review documentation, observe and discuss administration of medication methods and crash cart procedures.

c) Day 2
Provide care for two medical/surgical or orthopedic patients, focusing the care plan on developmental stage, stress and coping, and documentation. Identify strategies for own coping.

d) Day 3
Apply nursing process and assist in the development of nursing care plans for two patients with neurological or rehabilitative problems.

e) Day 4
Assist in the development of nursing care plans for two patients needing care of catheters and measurement of output with corresponding documentation. Identify fluid and electrolyte imbalances. Relate laboratory data to symptoms and discuss urinary status.

f) Day 5
Assist in the development of nursing care plans and provide care for three patients with diabetes mellitus or endocrine problems.

g) Day 6
Provide nursing care for two or three adults or children with cardiac and/or respiratory problems.

h) Day 7
Provide care to preoperative and postoperative patients, admissions and discharges. Prepare a self-evaluation and preceptor evaluation for discussion of successful completion of the clinical component.

i) Day 8

1) Provide care for three clients with mobility and diversionary needs.

2) Conference with preceptor for discussion of self-evaluation and determining successful completion of the clinical component. The nurse taking the remedial education course shall take or be scheduled to take a test on the Act and this Part.

3) The preceptor will assure that the Division~~Department of Professional Regulation~~ is notified of the licensed practical nurse's successful completion of the alternative current nursing practice update course.

(Source: Amended at 30 Ill. Reg. 8582, effective April 21, 2006)

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1) Heading of the Part: Riverboat Gambling

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

3) Section Number: 3000.1071 — Adopted Action: Amendment

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

5) Effective Date of Amendment: April 19, 2006

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: 29 Ill. Reg. 19773; December 9, 2005

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: None, except for nonsubstantive changes.

12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this adopted amendment replace any emergency amendment currently in effect? Yes. An emergency amendment was adopted at 29 Ill. Reg. 20095, effective December 9, 2005, for no more than 150 days.

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

Section Number	Proposed Action	Ill. Reg. Citation
3000.800	Amendment	29 Ill. Reg. 20724; 12/30/05

15) Summary and Purpose of Amendment: The General Assembly passed Senate Bill 316 on May 31, 2005, which became Public Act 94-673 upon approval by the Governor on August 23, 2005. P.A. 94-673 amends, among others, Section 12(a) of the Riverboat

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Gambling Act, 230 ILCS 10/12(a), to change the admission tax rate imposed upon holders of owners licenses to conduct riverboat gaming operations. P.A. 94-673 became effective immediately. An amendment is necessary in order to ensure that the Board's adopted rules properly reflect the collection of admission fees pursuant to the new tax rates, which were applied to the August 23, 2005 gaming day and continue to be applied to each subsequent gaming day. In addition, nonsubstantive amendments are made for internal consistency and to reflect the statute.

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

Jeannette P. Tamayo
Deputy Chief Counsel
Illinois Gaming Board
160 N. LaSalle, Suite 300-S
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(312)814-4641; FAX (312)814-8798
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The full text of the Adopted Amendment begins on the next page:

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TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARD

PART 3000
RIVERBOAT GAMBLING

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

SUBPART B: LICENSES

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

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3000.225 Business Entity and Personal Disclosure Filings
3000.230 Owner's Licenses
3000.231 Distributions
3000.232 Undue Economic Concentration
3000.234 Acquisition of Ownership Interest By~~by~~ Institutional Investors
3000.235 Transferability of Ownership Interest
3000.236 Owner's License Renewal
3000.237 Renewed Owner's Licenses, Term and Restrictions
3000.238 Appointment of Receiver for an Owner's License
3000.240 Supplier's Licenses
3000.241 Renewal of Supplier's License
3000.242 Amendment to Supplier's Product List
3000.243 Bankruptcy or Change in Ownership of Supplier
3000.244 Surrender of Supplier's License
3000.245 Occupational Licenses
3000.250 Transferability of Licenses
3000.260 Waiver of Requirements
3000.270 Certification and Registration of Electronic Gaming Devices
3000.271 Analysis of Questioned Electronic Gaming Devices
3000.272 Certification of Voucher Systems
3000.280 Registration of All Gaming Devices
3000.281 Transfer of Registration (Repealed)
3000.282 Seizure of Gaming Devices (Repealed)
3000.283 Analysis of Questioned Electronic Gaming Devices (Repealed)
3000.284 Disposal of Gaming Devices
3000.285 Certification and Registration of Voucher Validation Terminals

SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

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

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

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

SUBPART E: CRUISING

Section
3000.500 Riverboat Cruises
3000.510 Cancelled or Disrupted Cruises

SUBPART F: CONDUCT OF GAMING

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

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3000.650 Inventory of Chips
3000.655 Destruction of Chips, Tokens, and Vouchers
3000.660 Minimum Standards for Electronic Gaming Devices
3000.661 Minimum Standards for Voucher~~Vouchering~~ Systems
3000.665 Integrity of Electronic Gaming Devices
3000.666 Bill Validator Requirements
3000.667 Integrity of Voucher Systems
3000.670 Computer Monitoring Requirements of Electronic Gaming Devices
3000.671 Computer Monitoring Requirements of Voucher~~Vouchering~~ Systems

SUBPART G: EXCLUSION OF PERSONS

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

SUBPART H: SURVEILLANCE AND SECURITY

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

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SUBPART I: LIQUOR LICENSES

Section
3000.900 Liquor Control Commission
3000.910 Liquor Licenses
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SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

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

SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

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

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3000.1150 Sanctions and Penalties
3000.1155 Transmittal of Record and Recommendation to the Board

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

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999, for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 29, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; emergency amendment at 28 Ill. Reg. 13238, effective September 22, 2004, for a maximum of 150 days; emergency expired February 18, 2005; amended at 29 Ill. Reg. 10590, effective July 7, 2005; emergency amendment at 29 Ill. Reg. 20095, effective November 23, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8643, effective April 19, 2006.

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

Section 3000.1071 Admission Tax and Wagering Tax

a) Each holder of an Owner's license ("owner licensee") and licensed manager ("manager") is subject to tax and fee liability assessment for each Gaming Day for the applicable Admission Tax or~~,~~ Admission Fee and the Wagering Tax as imposed under the Act.

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b) Admission Taxes and Fees and Wagering Taxes shall be paid via an electronic funds transfer system employing an Automated Clearinghouse Debit method (ACH-Debit). Each owner licensee and manager shall maintain an account with sufficient funds to pay, in a timely fashion, all tax and fee liabilities due under the Act. The account shall be maintained at a financial institution capable of making payments to the State under the electronic funds transfer requirements imposed by the State.

c) Admission Taxes and Fees and Wagering Tax liability shall be established on the basis of a Gaming Day. Each owner licensee and manager shall select, with the approval of the Administrator, a 24 hour cycle to be defined as the uniform Gaming Day for that owner licensee or manager. A Gaming Day may begin on one calendar day and end the next calendar day, provided that the Gaming Day does not extend beyond the uniform 24 hour period selected in advance by the owner licensee or manager.

d) The Administrator shall prescribe and make available to each owner licensee and manager forms, instructions and reporting requirements for Admission Taxes and Fees and Wagering Taxes. The required forms include the Daily Tax and Fee Schedules. The Daily Tax and Fee Schedules may be provided by the Administrator to owner licensees and managers in computer-based format and include a computer program that, upon input by the licensee and manager of requisite data, provides for the calculation of tax and fee reporting information and tax and fee liability. Daily Tax and Fee Schedules shall be completed for each Gaming Day. The monthly float adjustment shall be completed on the Daily Tax and Fee Schedule for the final Gaming Day of each month.

e) The Daily Tax and Fee Schedules must be filed with the Board no later than 12:00 noon on the Due Date. Admission Taxes and Fees and Wagering Tax payments shall be transferred electronically on the Due Date to the Board's designated financial institution by the end of that financial institution's business day. For purposes of tax and fee schedules and tax and fee payments, the Due Date shall be defined as one bank business day after the close of the Gaming Day for which the liability is established. For example, if the Gaming Day of an owner~~a~~ licensee or manager ends at 2:00 a.m. on a Tuesday (i.e., the end of a Gaming Day that began on Monday), the Due Date is the Wednesday which follows, unless that Wednesday is not a bank business day, in which case the subsequent bank business day is the Due Date.

f) The Admission Tax for a Gaming Day shall be calculated and imposed on owner

licensees as provided in Section 12 of the Act. *From the Gaming Day of August 23, 2005, for a licensee that admitted 1,000,000 persons or fewer in calendar year 2004, the rate is $2 per person admitted, and for all other licensees the rate is $3 per person admitted.*~~*Until July 1, 2002, the rate is $2 per person admitted. From July 1, 2002 until July 1, 2003, the rate is $3 per person admitted. Beginning July 1, 2003, for a licensee that admitted 1,000,000 persons or fewer in the previous calendar year, the rate is $3 per person admitted; for a licensee that admitted more than 1,000,000 but no more than 2,300,000 persons in the previous calendar year, the rate is $4 per person admitted; and for a licensee that admitted more than 2,300,000 persons in the previous calendar year, the rate is $5 per person admitted. This admission tax is imposed upon the licensed owner conducting gambling. The admission tax shall be paid for each admission.*~~ [230 ILCS 10/12(a)]

g) The Admission Fee for a Gaming Day shall be calculated and imposed on licensed managers as provided in Section 12 of the Act. *For a licensee that admitted 1,000,000 persons or fewer in the previous calendar year, the rate is $3 per person admitted; for a licensee that admitted more than 1,000,000 but no more than 2,300,000 persons in the previous calendar year, the rate is $4 per person admitted; and for a licensee that admitted more than 2,300,000 persons in the previous calendar year, the rate is $5 per person admitted.* [230 ILCS 10/12(a-5)] This Admission Fee is imposed upon admissions to riverboat gambling operations operated by managers on behalf of the State pursuant to Section 7.3 of the Act. The Admission Fee shall be paid for each admission, except for the admissions for holders of the Board approved fee-free passes issued to actual and necessary officials and employees of the manager or other persons actually working on the riverboat as provided in the Act.

h) For any Gaming Day that commences after December 31, 1997 and ends on or before July 1, 2002, the Wagering Tax imposed on the owner licensee shall be based on each calendar year's accumulated Adjusted Gross Receipts and calculated at the following graduated rates:

1) 15% of the calendar year Adjusted Gross Receipts up to and including $25,000,000;

2) 20% of the calendar year Adjusted Gross Receipts in excess of $25,000,000 but not exceeding $50,000,000;

3) 25% of the calendar year Adjusted Gross Receipts in excess of

$50,000,000 but not exceeding $75,000,000;

4) 30% of the calendar year Adjusted Gross Receipts in excess of $75,000,000 but not exceeding $100,000,000; and

5) 35% of the calendar year Adjusted Gross Receipts in excess of $100,000,000.

i) For any Gaming Day that commences on or after July 1, 2002 and ends on or before July 1, 2003, the Wagering Tax imposed on the owner licensee shall be based on each calendar year's accumulated Adjusted Gross Receipts and calculated at the following graduated rates:

1) 15% of the calendar year Adjusted Gross Receipts up to and including $25,000,000;

2) 22.5% of the calendar year Adjusted Gross Receipts in excess of $25,000,000 but not exceeding $50,000,000;

3) 27.5% of the calendar year Adjusted Gross Receipts in excess of $50,000,000 but not exceeding $75,000,000;

4) 32.5% of the calendar year Adjusted Gross Receipts in excess of $75,000,000 but not exceeding $100,000,000;

5) 37.5% of the calendar year Adjusted Gross Receipts in excess of $100,000,000 but not exceeding $150,000,000;

6) 45% of the calendar year Adjusted Gross Receipts in excess of $150,000,000 but not exceeding $200,000,000; and

7) 50% of the calendar year Adjusted Gross Receipts in excess of $200,000,000.

j) For any Gaming Day that commences on or after July 1, 2003 and ends on or before July 1, 2005, the Wagering Tax imposed on the owner licensee shall be based on each calendar year's accumulated Adjusted Gross Receipts and calculated at the following graduated rates:

1) 15% of the calendar year Adjusted Gross Receipts up to and including

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$25,000,000;

2) 27.5% of the calendar year Adjusted Gross Receipts in excess of $25,000,000 but not exceeding $37,500,000;

3) 32.5% of the calendar year Adjusted Gross Receipts in excess of $37,500,000 but not exceeding $50,000,000;

4) 37.5% of the calendar year Adjusted Gross Receipts in excess of $50,000,000 but not exceeding $75,000,000;

5) 45% of the calendar year Adjusted Gross Receipts in excess of $75,000,000 but not exceeding $100,000,000;

6) 50% of the calendar year Adjusted Gross Receipts in excess of $100,000,000 but not exceeding $250,000,000; and

7) 70% of the calendar year Adjusted Gross Receipts in excess of $250,000,000.

k) The Wagering Tax imposed under subsection (j) shall no longer be imposed as~~beginning the earlier~~ of any Gaming Day that commences on or after~~:1)~~ July 1, 2005.~~;~~

~~2) the first date after July 1, 2003 that riverboat gambling operations are conducted pursuant to a non-operating or dormant license; or~~

~~3) the first day that riverboat gambling operations are conducted under the authority of an Owner's license that is in addition to the 10 Owner's licenses initially authorized under Section 7 of the Act.~~

l) For any Gaming Day that commences on or after July 1, 2005, the Wagering Tax imposed on the owner licensee shall be based on each calendar year's accumulated Adjusted Gross Receipts and calculated at the following graduated rates:~~Beginning on the first day on which the tax imposed under subsection (j) is no longer imposed, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, based on the Adjusted Gross Receipts received by a licensed owner from gambling games authorized under the Act at the following rates:~~

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1) 15% of annual Adjusted Gross Receipts up to and including $25,000,000;

2) 22.5% of annual Adjusted Gross Receipts in excess of $25,000,000 but not exceeding $50,000,000;

3) 27.5% of annual Adjusted Gross Receipts in excess of $50,000,000 but not exceeding $75,000,000;

4) 32.5% of annual Adjusted Gross Receipts in excess of $75,000,000 but not exceeding $100,000,000;

5) 37.5% of annual Adjusted Gross Receipts in excess of $100,000,000 but not exceeding $150,000,000;

6) 45% of annual Adjusted Gross Receipts in excess of $150,000,000 but not exceeding $200,000,000;

7) 50% of annual Adjusted Gross Receipts in excess of $200,000,000.

m) Riverboat gambling operations conducted by a manager on behalf of the State are not subject to the Wagering Tax imposed under Section 13 of the Act.

n) Daily Tax and Fee Schedules shall include all information necessary for adjustments and reconciliation of tax and fee liability and shall be subject to audit by the Board and its audit agents. Adjustments to previously reported tax and fee information shall be made by the owner licensee or manager, except that no adjustment of $25,000 or more shall be made to previously reported Adjusted Gross Receipts without the prior written approval of the Administrator or the Administrator's designee.

o) Any adjustment for a Gaming Day which commenced on or before December 31, 1997, shall be authorized by the Administrator or the Administrator's designee, and shall be taxed at a rate of 20% of Adjusted Gross Receipts. Any adjustment for a Gaming Day that commences after December 31, 1997, shall be taxed at the graduated tax or fee rate applicable to the Gaming Day upon which the adjustment is effected.

p) In the event that a Daily Tax and Fee Schedule for a specific Gaming Day properly reflects a net wagering loss experienced by the owner licensee or manager, an adjustment for the amount of any remaining net wagering loss

(negative Adjusted Gross Receipts) shall be carried forward on the subsequent Daily Tax and Fee Schedules until such loss is offset by Gaming win (positive Adjusted Gross Receipts).

q) All Admission Taxes and Fees and Wagering Taxes paid pursuant to the requirements of the Act shall be deposited by the Board into the State Gaming Fund or Common School Fund. The Board shall from time to time transfer excess funds in the State Gaming Fund to the Education Assistance Fund. The Board shall determine the amount of excess funds subject to transfer to the Common School Fund based upon the addition to the amount of Wagering Taxes that would have been collected if the Wagering Tax rates under subsection (j) were not in effect. The Board shall determine the amount of excess funds subject to transfer based upon the difference between the State Gaming Fund balance and the outstanding obligations, including any outstanding share of Admission and Wagering Taxes due to local governments, the Horse Racing Equity Fund, a home rule county with a population over 3,000,000, and the Chicago State University. The Administrator will be responsible for calculating the allocation of the Admission Taxes and Fees and Wagering Taxes between the State and the unit of local government designated as the home dock of the Riverboat and the other required allocations, as provided in the Act. Payments for Admission Taxes and Fees shall be made by the Board to units of local government quarterly, and payments for Wagering Taxes and all other payments, other than the Common School Fund, shall be made monthly, by voucher/warrant, subject to appropriation.

r) An owner~~A~~ licensee's or manager's failure to comply with the provisions of this Section may subject the owner licensee or manager to penalty and interest amounts pursuant to the Uniform Penalty and Interest Act [35 ILCS 735]. The Administrator is authorized to waive any penalty and interest for the late filing of a tax schedule or late tax payment, if the owner licensee or manager can show good cause. "Good cause" shall include, but not be limited to, detection and correction of a deficiency in filing or payment that resulted from a documented inadvertent or unintentional error that was corrected within one business day after the applicable Due Date. The owner licensee or manager shall be notified by the Administrator in writing of any penalty or interest payable because of a late tax schedule filing or late tax payment. The owner licensee or manager may, within 10 business days after receiving the notice, file a written request for a waiver with the Administrator. The Administrator shall act on the request for waiver and notify the owner licensee or manager in writing of the decision within 15 calendar days after receiving the request. If the Administrator fails to act within the 15 day

period the waiver is deemed granted. If the Administrator denies the request for waiver the owner licensee or manager may ask the Board for a hearing. The request for hearing must be in writing and filed not later than 15 calendar days after receipt of the notice of denial. Except as provided in this subsection (r), the provisions for hearings under Subpart D shall apply to any hearing conducted under this Section. A hearing under this Section is not a disciplinary hearing under Subpart K of this Part.

(Source: Amended at 30 Ill. Reg. 8643, effective April 19, 2006)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Emergency Medical Services and Trauma Center Code

2) Code Citation: 77 Ill. Adm. Code 515

3) Section Number: 515.380 — Adopted Action: Amended

4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

5) Effective Date of Rulemaking: April 21, 2006

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: 29 Ill. Reg. 16357; 10/28/05

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period:

Section 515.380 Add "and cardiocerebral resuscitation (CCR)" after "(CPR)".

Section 515.380 Replace "tracheal intubation" with "invasive airway management".

Section 515.380 Add "and CCR" after "CPR".

Section 515.380 Before "by the physician", add "and the Order is signed and dated".

Section 515.380 Replace "develop a" with "adopt a Regional standardized".

The following changes were made in response to comments and suggestions of JCAR:

Section 515.380 Change "FR" to "First Responder (FR)".

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

Section 515.380 Change "FR/D" to "First Responder/Automated External Defibrillator (FR/AED)".

In addition, various typographical, grammatical, and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rulemaking currently in effect? No. The companion emergency rulemaking expired on 12/25/05.

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

15) Summary and Purpose of Rulemaking: Public Acts 91-789 and 92-356 amended 20 ILCS 2310 in regard to advance directive information, requiring the Department, in consultation with several Statewide organizations, to develop and publish a uniform form for physician do-not-resuscitate orders that may be utilized in all settings. The form is to be referred to as the Department of Public Health Uniform DNR Order form. The law further provides that the Department contract with Statewide professional organizations representing physicians licensed to practice medicine in all its branches to prepare and publish the required materials. The Department may also consult with a Statewide organization representing registered professional nurses on preparing the required materials. The Department developed the DNR form with extensive input from a Task Force that included Illinois professional organizations representing physicians, nursing homes, hospitals, the EMS community and hospices, and that also received input from the general public and a medical ethicist. The form will no longer be required to be on brightly colored orange paper, but it is recommended that brightly colored paper be used. The System's policy will no longer be required to include a request that the physician or coroner sign the run sheet. Additional guidance is provided regarding revocation of the Order. First Responders have been added to the list of EMS personnel who may respond to a valid DNR Order. The requirement for a yearly report as part of the System's quality assurance policy is being eliminated.

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

Susan Meister
Division of Legal Services
Department of Public Health

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

535 West Jefferson, 5th Floor
Springfield, Illinois 62761

217/782-2043
e-mail: rules@idph.state.il.us

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 515
EMERGENCY MEDICAL SERVICES AND TRAUMA CENTER CODE

SUBPART A: GENERAL

Section
515.100 Definitions
515.125 Incorporated and Referenced Materials
515.150 Waiver Provisions
515.160 Violations, Hearings and Fines
515.170 Employer Responsibility

SUBPART B: EMS REGIONS

Section
515.200 Emergency Medical Services Regions
515.210 EMS Regional Plan Development
515.220 EMS Regional Plan Content
515.230 Resolution of Disputes Concerning the EMS Regional Plan
515.240 Bioterrorism Grants

SUBPART C: EMS SYSTEMS

Section
515.300 Approval of New EMS Systems
515.310 Approval and Renewal of EMS Systems
515.315 Bypass Status Review
515.320 Scope of EMS Service
515.330 EMS System Program Plan
515.340 EMS Medical Director's Course
515.350 Data Collection and Submission
515.360 Approval of Additional Drugs and Equipment
515.370 Automated Defibrillation (Repealed)
515.380 Do Not Resuscitate (DNR) Policy
515.390 Minimum Standards for Continuing Operation
515.400 General Communications
515.410 EMS System Communications

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

515.420 System Participation Suspensions
515.430 Suspension, Revocation and Denial of Licensure of EMTs
515.440 State Emergency Medical Services Disciplinary Review Board
515.445 Pediatric Care
515.450 Complaints

SUBPART D: EMERGENCY MEDICAL TECHNICIANS

Section
515.500 Emergency Medical Technician-Basic Training
515.510 Emergency Medical Technician-Intermediate Training
515.520 Emergency Medical Technician-Paramedic Training
515.530 EMT Testing and Fees
515.540 EMT Licensure
515.550 Scope of Practice – Licensed EMT
515.560 EMT-B Continuing Education
515.570 EMT-I Continuing Education
515.580 EMT-P Continuing Education
515.590 EMT License Renewals
515.600 EMT Inactive Status
515.610 EMT Reciprocity

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER, FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE, EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND TRAUMA NURSE SPECIALIST

Section
515.700 EMS Lead Instructor
515.710 Emergency Medical Dispatcher
515.720 First Responder
515.725 First Responder – AED
515.730 Pre-Hospital Registered Nurse
515.740 Emergency Communications Registered Nurse
515.750 Trauma Nurse Specialist
515.760 Trauma Nurse Specialist Program Plan

SUBPART F: VEHICLE SERVICE PROVIDERS

Section
515.800 Vehicle Service Provider Licensure

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

515.810 EMS Vehicle System Participation
515.820 Denial, Nonrenewal, Suspension and Revocation of a Vehicle Service Provider License
515.825 Alternate Response Vehicle
515.830 Ambulance Licensing Requirements

SUBPART G: LICENSURE OF SPECIALIZED EMERGENCY MEDICAL SERVICES VEHICLE (SEMSV) PROGRAMS

Section
515.900 Licensure of SEMSV Programs – General
515.910 Denial, Nonrenewal, Suspension or Revocation of SEMSV Licensure
515.920 SEMSV Program Licensure Requirements for All Vehicles
515.930 Helicopter and Fixed-Wing Aircraft Requirements
515.935 EMS Pilot Specifications
515.940 Aeromedical Crew Member Training Requirements
515.945 Aircraft Vehicle Specifications and Operation
515.950 Aircraft Medical Equipment and Drugs
515.955 Vehicle Maintenance for Helicopter and Fixed-wing Aircraft Programs
515.960 Aircraft Communications and Dispatch Center
515.965 Watercraft Requirements
515.970 Watercraft Vehicle Specifications and Operation
515.975 Watercraft Medical Equipment and Drugs
515.980 Watercraft Communications and Dispatch Center
515.985 Off-Road SEMSV Requirements
515.990 Off-Road Vehicle Specifications and Operation
515.995 Off-Road Medical Equipment and Drugs
515.1000 Off-Road Communications and Dispatch Center

SUBPART H: TRAUMA CENTERS

Section
515.2000 Trauma Center Designation
515.2010 Denial of Application for Designation or Request for Renewal
515.2020 Inspection and Revocation of Designation
515.2030 Level I Trauma Center Designation Criteria
515.2035 Level I Pediatric Trauma Center
515.2040 Level II Trauma Center Designation Criteria
515.2045 Level II Pediatric Trauma Center
515.2050 Trauma Center Uniform Reporting Requirements

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

515.2060 Trauma Patient Evaluation and Transfer
515.2070 Trauma Center Designation Delegation to Local Health Departments
515.2080 Trauma Center Confidentiality and Immunity
515.2090 Trauma Center Fund
515.2100 Pediatric Care (Renumbered)
515.2200 Suspension Policy for Trauma Nurse Specialist Certification

SUBPART I: EMS ASSISTANCE FUND

Section
515.3000 EMS Assistance Fund Administration

SUBPART J: EMERGENCY MEDICAL SERVICES FOR CHILDREN

Section
515.4000 Facility Recognition Criteria for the Emergency Department Approved for Pediatrics (EDAP)
515.4010 Facility Recognition Criteria for the Standby Emergency Department Approved for Pediatrics (SEDP)

515.APPENDIX A A Request for Designation (RFD) Trauma Center
515.APPENDIX B A Request for Renewal of Trauma Center Designation
515.APPENDIX C Minimum Trauma Field Triage Criteria
515.APPENDIX D Standing Medical Orders
515.APPENDIX E Minimum Prescribed Data Elements
515.APPENDIX F Template for In-House Triage for Trauma Centers
515.APPENDIX G Credentials of General/Trauma Surgeons Level I and Level II
515.APPENDIX H Credentials of Emergency Department Physicians Level I and Level II
515.APPENDIX I Credentials of General/Trauma Surgeons Level I and Level II Pediatric Trauma Centers
515.APPENDIX J Credentials of Emergency Department Physicians Level I and Level II Pediatric Trauma Centers
515.APPENDIX K Application for Facility Recognition for Emergency Department with Pediatrics Capabilities
515.APPENDIX L Pediatric Equipment Recommendations for Emergency Departments
515.APPENDIX M Interfacility Pediatric Trauma and Critical Care Consultation and/or Transfer Guideline

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

SOURCE: Emergency Rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995 for a maximum of 150 days; emergency expired January 28, 1996; adopted at 20 Ill. Reg. 3203, effective February 9, 1996; emergency amendment at 21 Ill. Reg. 2437, effective January 31, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5170, effective April 15, 1997; amended at 22 Ill. Reg. 11835, effective June 25, 1998; amended at 22 Ill. Reg. 16543, effective September 8, 1998; amended at 24 Ill. Reg. 8585, effective June 10, 2000; amended at 24 Ill. Reg. 9006, effective June 15, 2000; amended at 24 Ill. Reg. 19218, effective December 15, 2000; amended at 25 Ill. Reg. 16386, effective December 20, 2001; amended at 26 Ill. Reg. 18367, effective December 20, 2002; amended at 27 Ill. Reg. 1277, effective January 10, 2003; amended at 27 Ill. Reg. 6352, effective April 15, 2003; amended at 27 Ill. Reg. 7302, effective April 25, 2003; amended at 27 Ill. Reg. 13507, effective July 25, 2003; emergency amendment at 29 Ill. Reg. 12640, effective July 29, 2005, for a maximum of 150 days; emergency expired December 25, 2005; amended at 30 Ill. Reg. 8658, effective April 21, 2006.

SUBPART C: EMS SYSTEMS

Section 515.380 Do Not Resuscitate (DNR) Policy

a) A System shall adopt a Regional standardized~~develop a~~ DNR policy for use by System personnel. The policy shall be implemented only after it has been reviewed and approved by the Department, in accordance with the requirements of this Section. For purposes of this Section, DNR refers to the withholding of cardiopulmonary resuscitation (CPR) and cardiocerebral resuscitation (CCR); electrical therapy to include pacing, cardioversion and defibrillation; invasive airway management~~tracheal intubation~~ and manually or mechanically assisted ventilations, unless otherwise stated on the DNR Order.

b) The policy shall include, but not be limited to, specific procedures and protocols for cardiac arrest/DNR situations arising in long-term care facilities, with hospice and home care patients, and with patients who arrest during inter-hospital transfers or transportation to or from home.

c) The policy shall include specific procedures and protocols for withholding CPR and CCR in situations where explicit signs of biological death are present (e.g., decapitation, rigor mortis without profound hypothermia, profound dependent lividity), or the patient has been declared dead by a coroner/medical examiner or the patient's physician. The policy shall include recording such information on

the patient care report~~run sheet and requesting the physician or coroner to sign the run sheet (if applicable)~~.

d) For situations not covered by subsection (c) of this Section, the policy shall require that resuscitative procedures be followed unless a valid DNR Order is present.

e) *The Department of Public Health Uniform DNR Order form or a copy of that form shall be honored.* (Section 3.57 of the Act)~~A valid DNR Order shall be written on a form provided by the Department and shall contain the following information.~~ If the Department Uniform DNR Order form is reproduced, it is recommended that brightly colored ~~orange~~ paper ~~shall~~ be used. Systems shall also have a policy in place concerning recognition of other DNR orders~~written prior to July 1, 2001~~. The information required on the Department Uniform DNR Order form includes, but is not limited to, the following items:

1) Name of the patient,

2) Name and signature of attending physician,

3) Effective date,

4) The words "Do Not Resuscitate",

5) Evidence of consent – either:

A) signature of patient; or

B) signature of legal guardian; or

C) signature of durable power of attorney for health care agent; or

D) signature of surrogate decision-maker.

f) A living will by itself cannot be recognized by pre-hospital care providers.

g) Revocation of a written DNR Order shall be made only in one or more of the following ways:

1) The Order is physically destroyed ~~or verbally rescinded~~ by the physician

who signed the Order or by the person who gave written consent to the Order; or

2) The Order is ~~physically destroyed or~~ verbally rescinded by the physician who signed the Order or by the person who gave written consent to the Order and the word "VOID" is written in large letters across the front of the Order, and the Order is signed and dated by the physician who signed the Order or by the person who gave written consent to the Order.

h) A System's DNR policy shall require System personnel to make a reasonable attempt to verify the identity of the patient (for example, identification by another person or an identifying bracelet) named in a valid DNR Order.

i) The policy shall describe the roles of the on-line medical control physician and ECRN in DNR situations.

j) The policy shall state which System EMS~~ambulance~~ personnel are authorized to respond to a valid DNR Order (EMT-P, EMT-I, EMT-B, Pre-hospital RN, First Responder (FR), First Responder/Automated External Defibrillator (FR/AED)).

k) The policy shall cross-reference the System's coroner/medical examiner notification policy.

l) The policy shall describe the System's program for educating System personnel concerning the policy.

m) The policy shall identify the quality assurance measures specific to this policy, including the methods and periods of review~~, and the submission of a yearly report to the Department indicating issues or problems that have been identified and the System's responses to those issues or problems~~.

(Source: Amended at 30 Ill. Reg. 8658, effective April 21, 2006)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PUBLIC HEARING ON PROPOSED RULES

1) Heading of the Part: White-Tailed Deer Hunting by Use of Firearms

2) Code Citation: 17 Ill. Adm. Code 650

3) Register Citation to Notice of Proposed Amendments: 30 Ill. Reg. 5832; March 31, 2006

4) Date, Time and Location of Public Hearing:

Wednesday, May 17, 2006
1:00 p.m.
Illinois Department of Natural Resources
One Natural Resources Way
Lakeview B Conference Room
Springfield IL 62702
217/782-1809

5) Other Pertinent Information:

Individuals who are unable to attend the public hearing but wish to comment on the proposed amendments should submit written comments by May 16, 2006, to:

Jack Price
Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702-1271

Telephone: 217/782-1809
Fax: 217/785-2438

All comments received will be fully considered by the agency.

DEPARTMENT OF CORRECTIONS

NOTICE OF EXPEDITED CORRECTION

1) Heading of the Part: Transitional Housing Licensure for Sex Offenders on Parole, Probation, or Supervision

2) Code Citation: 20 Ill. Adm. Code 800

3) Section Numbers:
800.50
800.120
800.130
800.210

4) Date Proposal published in Illinois Register: September 23, 2005; 29 Ill. Reg. 14145

5) Date Adoption published in Illinois Register: January 6, 2006; 30 Ill. Reg. 149

6) Date Request for Expedited Correction to Adopted Rules published in Illinois Register: February 17, 2006; 30 Ill. Reg. 2422

7) Adoption Effective Date: January 1, 2006

8) Correction Effective Date: January 1, 2006

9) Reason for Approval of Expedited Correction: These changes represent technical Second Notice Agreements that the Department inadvertently omitted when it filed its adopted rule and a typographical error.

DEPARTMENT OF CORRECTIONS

NOTICE OF EXPEDITED CORRECTION

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER h: MISCELLANEOUS STANDARDS

PART 800
TRANSITIONAL HOUSING LICENSURE FOR SEX OFFENDERS ON PAROLE, PROBATION, OR SUPERVISION

SUBPART A: LICENSING PROCEDURES

Section
800.10 Applicability
800.20 Designees
800.30 Definitions
800.40 Transitional Housing, Treatment, and Referral Criteria
800.50 Licenses Required
800.60 Application Fees
800.70 Application for Licensure
800.80 Licensing Requirements
800.90 Responsibilities of the Governing Body
800.100 On-site Inspection of Programs, Security, and Operations
800.110 Background Investigations
800.120 Required Notices
800.130 Change of Ownership or Management or Corporate Dissolution
800.140 Application for Renewal of License
800.150 Grounds for Revocation, Termination, or Refusal to Issue or Renew a License
800.160 Complaints Concerning Licensees
800.170 Investigation of Potential Deficiencies or Violations Concerning Licensees
800.180 Disposition of Potential Deficiencies or Violations Concerning Licensees
800.190 Closure Order
800.200 Procedure for Revocation or Refusal to Renew a License
800.210 Licensing Hearing
800.220 Operation Without a License

SUBPART B: OPERATING STANDARDS

Section
800.300 Administration
800.310 Reports and Correspondence
800.320 Records of Sex Offenders

DEPARTMENT OF CORRECTIONS

NOTICE OF EXPEDITED CORRECTION

800.330 Security Procedures
800.340 Searches
800.350 Safety and Emergency Procedures

AUTHORITY: Implementing and authorized by Sections 3-2-2, 3-3-7, 3-3-9, 3-14-2, 3-17-1, 3-17-5, 5-6-3, 5-6-3.1 and 5-6-4 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-3-7, 3-3-9, 3-14-2, 3-17-1, 3-17-5, 5-6-3, 5-6-3.1 and 5-6-4], Section 16.2 of the Probation and Probation Officers Act [730 ILCS 110/16.2], Section 120 of the Sex Offender and Child Murderer Community Notification Law [730 ILCS 152/120], and the Sex Offender Management Board Act [20 ILCS 4026].

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 14358, effective September 9, 2005, for a maximum of 150 days; adopted at 30 Ill. Reg. 149, effective January 1, 2006; expedited correction at 30 Ill. Reg. 8669, effective January 1, 2006.

SUBPART A: LICENSING PROCEDURES

Section 800.50 Licenses Required

a) No person on parole, probation, or supervision for a sex offense shall reside in a building or premises in which another person known to be a sex offender or known to have been placed on supervision for a sex offense resides, except in a Department licensed Transitional Housing facility. Any person, group of persons, corporation, or other entity who desires to develop, establish, maintain, or operate a Transitional Housing facility for sex offenders who are on parole, probation, or supervision must obtain a license from the Department prior to commencing operations. Transitional Housing licenses shall be issued for the specific level of the facility.

1) Level I licenses shall be issued to facilities that may house more than one but not more than 20 sex offenders on parole, probation, or supervision.

2) Level II licenses shall be issued to facilities that have a Department of Human Services license under 77 Ill. Adm. Code 2060 and that have fewer than ten sex offender residents, or no more than ten percent of the total residency be sex offenders on parole, probation, or supervision, whichever is less.

b) Before a Transitional Housing license may be granted, the licensing applicant must certify its compliance with federal, State, and local laws, as well as all

applicable federal, State, and~~or~~ local building, zoning, planning, land use, health, and sanitation regulations, and fire safety requirements of the State Fire Marshal.

(Source: Expedited correction at 30 Ill. Reg. 8669, effective January 1, 2006)

Section 800.120 Required Notices

a) Facility Postings

1) Upon initial licensure and during the period of licensure, the licensee shall maintain at the main entrance a visible and conspicuous exterior sign in at least four inch high letters identifying the facility as a "Department of Corrections Licensed Transitional Housing Facility".

2) The license issued by the Department shall be publicly displayed at the facility at all times.

b) Facility Filing and Publication

1) Upon initial licensure, the licensee shall file with the office of the county clerk of the county in which the facility is located a certificate setting forth the name the facility is operating under and the true or real full names of persons or entities operating the facility.

2) The licensee shall publish the filing of the notice of licensure in a newspaper of general circulation published in the county in which the certificate is filed. The notice shall be published once per week for three consecutive weeks with the first publication within 15 days after the certificate is filed with the county clerk.

3) Proof of publication shall be filed with the county clerk within 50 days from the date of filing the certificate. Unless proof of publication is made to the county clerk, the notification is void.

c) The licensee shall notify the police department, public and private elementary and secondary schools, public libraries, and each residential home and apartment complex located within 500 feet of the Transitional Housing facility of its initial licensing as a Transitional Housing facility and, annually thereafter, of its continuing operation as a Transitional Housing facility.

d) The Department shall, within one week of issuance of a Transitional Housing license, submit written notification to the Illinois State Police of the licensure, the address of the facility, and the maximum number of sex offenders that can be housed at the facility for inclusion on the Illinois State Police Offender Registry website.

(Source: Expedited correction at 30 Ill. Reg. 8669, effective January 1, 2006)

Section 800.130 Change of Ownership or Management or Corporate Dissolution

a) Each Transitional Housing license issued shall be valid only for the premises and persons named in the application. Licensure is not transferable. A license shall become null and void when:

1) A change in ownership occurs involving more than 25% of the aggregate ownership interest within a one year period or a significant change in management occurs; or

2) A change in 50% or more in the board of directors of a not-for-profit corporation occurs within a one year period.

b) In order to obtain a new license reflective of the change in ownership, the licensee shall submit an application and fees to the Department in accordance with Sections 800.60 and 800.70.

c) Failure to notify the Department within ten calendar days after the changes in ownership listed in subsection (a) will result in the imposition of a license fee of $350 for each affected license.

d) A license shall become null, void, and of no further effect when there is any dissolution of a corporate licensee. Written notification shall be given to the Department within ten calendar days after the dissolution.

e) A license issued to a corporation that is subsequently dissolved shall not be reactivated upon reinstatement of the corporation and the license is also subject to sanctions as provided in this Part. Such corporation shall reapply for licensure.

f) In order to obtain a new license relative to reinstatement of a corporation, an application for initial licensure and the license application fee of $250 per license shall be submitted to the Department. If the Department was not notified within

ten calendar days after~~of~~ the dissolution of the corporation, the license fee will be $350 for each affected license.

(Source: Expedited correction at 30 Ill. Reg. 8669, effective January 1, 2006)

Section 800.210 Licensing Hearing

a) At the date, time, and place designated, the Director, or an individual authorized in writing by the Director to function as the hearing officer, shall conduct a hearing regarding the revocation of a license or the refusal to renew a license to operate a Transitional Housing facility. The hearing shall be governed by the provisions contained in Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art.10], unless otherwise provided in this Section.

b) Both the Department and the licensee, also referred to as parties, shall be allowed to present written and oral statements, testimony, and evidence that may be pertinent to the charges or to the defense. A person may appear and be heard on his or her own behalf or through an attorney at law authorized to practice in the State of Illinois.

c) An attorney appearing in a representative capacity shall file a written notice of appearance identifying him or herself by name, address, and telephone number and identifying the party represented.

d) Any pleadings, motions, affidavits in support of motions, and notices shall be served by the filing party upon all parties to the proceeding. Proof of service upon all parties shall be filed with the Department at the address listed in Section 800.160.

1) Service shall be made by delivering in person or by depositing in the United States mail, properly addressed with postage prepaid, one copy to each party entitled to the material. When any party has appeared by attorney, service upon the attorney shall be deemed service upon the party.

2) Proof of service of any paper shall be by a certificate of attorney, affidavit, or acknowledgement.

e) The hearing officer may direct parties or their attorneys to appear at a specified date, time, and place for a conference prior to the date set for the hearing or during the course of the hearing for the purpose of considering:

1) The simplification of issues;

2) The necessity or desirability of amending the pleadings for the purpose of clarification, amplification, or limitation with respect to matters alleged in any pleading;

3) The possibility of making admissions or stipulations of fact to the end of avoiding the unnecessary introduction of evidence;

4) The procedure at the hearing;

5) The limitation of the number of witnesses;

6) The propriety of prior mutual exchange between or among parties of prepared testimony or exhibits; and

7) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

f) All hearings conducted in any proceeding shall be open to the public, except that the hearing officer may close portions of the hearing based on considerations concerning the welfare and safety of the participants or witnesses. In the event of failure to appear at the hearing upon proper notice, the hearing may be held ex parte~~exparte~~ immediately.

g) The hearing officer shall have full authority to:

1) Rule upon all motions made in the course of a hearing;

2) Rule upon all other matters arising in the course of the hearing; and

3) Require, upon reasonable notice, any party to present further material or relative evidence upon any issue.

h) If the respondent believes the hearing officer is biased against the respondent or if there is a conflict of interest, he or she shall petition the Director in writing at least five days prior to the date set for the hearing to appoint another hearing officer to hear the matter. The petition shall be accompanied by an affidavit setting forth the facts upon which the claim of bias or conflict of interest is based.

DEPARTMENT OF CORRECTIONS

NOTICE OF EXPEDITED CORRECTION

The Director shall make a determination whether bias or conflict of interest exists, and may remove any hearing officer he or she finds biased or if a determination has been made that a conflict of interest exists.

i) The technical rules of evidence shall not apply at any hearing. Any evidence having probative value and force, relevant and material to the facts at issue, shall be admitted in the proceedings, subject only to objections to the weight of the evidence as distinguished from admissibility per se. When the admissibility of evidence is in dispute and depends upon fairly arguable interpretations of law, the evidence shall be admitted.

j) A party may conduct examinations or cross-examinations without rigid adherence to formal rules. The hearing officer before whom a matter is pending may, in his or her discretion, examine any of the witnesses at a hearing.

k) Parties may by stipulation agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding.

l) The Department shall record the hearing via methods such as tape or stenography.

1) The record of the hearing shall be transcribed upon request of any party provided that the party pays the cost of the transcript.

2) Suggested corrections to the transcript may be offered within ten days after the transcript is filed in the proceeding, unless the hearing officer permits suggested corrections to be official at a later time.

m) Subpoenas for the attendance of witnesses from any place in the State of Illinois, or for the production of relevant books and papers for a hearing in a pending proceeding, may be issued by the Department or the hearing officer upon the motion of any party. Service of subpoenas and payment of witness fees shall be as provided in the Civil Practice Act [735 ILCS 5].

n) After initiation of a statement of charges, any party, upon written request made to the other party at least three business days prior to the hearing or within five business days after service of an additional pleading, shall be entitled to:

1) Obtain the names and addresses of witnesses the other party intends to call to testify at the hearing; and

2) Obtain all writings and documents the party proposes to offer in evidence.

o) A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request or for the admission of genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.

p) The hearing officer may continue the hearing from time to time, but not to exceed a single period of 30 days, unless special extenuating circumstances make further continuance feasible.

q) Within 30 business days after the close of all proofs in the hearing, the hearing officer shall cause to be prepared and filed with the Department originals of findings of fact, conclusions of law, and a recommendation to the Director, together with the entire record in the proceeding.

r) At any time prior to the entering of findings of facts, conclusions of law, and recommendations by the hearing officer, the parties may seek to terminate the matter by presenting to the Director an agreed order to which they all acknowledge their consent by affixing their respective signatures. Upon the Director's signing of such an order, the entire proceeding shall cease and each party shall be deemed to have waived administrative review.

s) Within 30 business days after receipt of the findings of fact, conclusions of law, recommendations to the Director, and the entire record of the proceeding, the Director shall issue a final administrative decision. A copy of the decision shall be served on each party personally or by certified mail and shall include the findings of fact and conclusions of law. Final administrative decisions of the Department may be judicially reviewed pursuant to the Administrative Review Law [735 ILCS 5/Art. III].

t) The time within which any act under this Section is to be done shall be computed by excluding the first business day and including the last business day.

(Source: Expedited correction at 30 Ill. Reg. 8669, effective January 1, 2006)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF CORRECTION TO NOTICE ONLY

1) Heading of the Part: Application

2) Code Citation: 89 Ill. Adm. Code 557

3) The Notice of Adopted Amendments being corrected appeared at: 30 Ill. Reg. 7758, dated April 21, 2006

4) The information being corrected is as follows: On the proposed version of this rulemaking at 29 Ill. Reg. 10560, Sections 557.10, 557.30 and 557.60 were not originally part of the rulemaking. JCAR added these sections to correct Office of Rehabilitation Services (ORS) to Division of Rehabilitation Services (DRS). This was inadvertently left out of the answer to question 11) on the Notice of Adopted Amendments that asks for differences between the proposed and adopted version.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF CORRECTION TO NOTICE ONLY

1) Heading of the Part: Life Reinsurance Agreements

2) Code Citation: 50 Ill. Adm. Code 1103

3) The Notice of Adopted Amendments being corrected appeared at: 30 Ill. Reg. 7766, dated April 21, 2006.

4) The Information being corrected is as follows: Item 11 of the Division's Notice of Adopted Amendments should have included a notation that technical changes had been made to both Section 1103.20, as well as Exhibit A ,of this Part. These technical changes were initiated by JCAR during Second Notice and were nonsubstantive. The Division of Insurance agreed with the changes JCAR made to the Section and Exhibit noted above and incorporated both with the amendments the Division published at final adoption.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
MAY 9, 2006
(Subject to change)

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706
Email: jcar@legis.state.il.us
Phone: 217/785-2254

RULEMAKINGS CURRENTLY BEFORE JCAR

Agriculture

1. Definitions (8 Ill. Adm. Code 20)
   -First Notice Published: 30 Ill. Reg. 697 – 1/20/06
   -Expiration of Second Notice: 6/7/06

2. Livestock Auction Markets (8 Ill. Adm. Code 40)
   -First Notice Published: 30 Ill. Reg. 713 – 1/20/06
   -Expiration of Second Notice: 6/7/06

3. Hatcheries, Poultry Flocks, and Produce Thereof (8 Ill. Adm. Code 55)
   -First Notice Published: 30 Ill. Reg. 719 – 1/20/06

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

-Expiration of Second Notice: 6/7/06

4. Bovine Brucellosis (8 Ill. Adm. Code 75)
-First Notice Published: 30 Ill. Reg. 724 – 1/20/06
-Expiration of Second Notice: 6/7/06

5. Illinois Bovidae and Cervidae Tuberculosis Eradication Act (8 Ill. Adm. Code 80)
-First Notice Published: 30 Ill. Reg. 732 – 1/20/06
-Expiration of Second Notice: 6/7/06

6. Diseased Animals (8 Ill. Adm. Code 85)
-First Notice Published: 30 Ill. Reg. 737 – 1/20/06
-Expiration of Second Notice: 6/7/06

7. Animal Welfare Act (8 Ill. Adm. Code 25)
-First Notice Published: 30 Ill. Reg. 704 – 1/20/06
-Expiration of Second Notice: 6/7/06

8. Animal Disease Laboratories Act (8 Ill. Adm. Code 110)
-First Notice Published: 30 Ill. Reg. 769 – 1/20/06
-Expiration of Second Notice: 6/7/06

Central Management Services

9. Standard Procurement (44 Ill. Adm. Code 1)
-First Notice Published: 29 Ill. Reg. 20140 – 12/16/05
-Expiration of Second Notice: 5/14/06

10. Conditions of Employment (80 Ill. Adm. Code 303)
-First Notice Published: 29 Ill. Reg. 19000 – 11/28/05
-Expiration of Second Notice: 6/3/06

11. Pay Plan (80 Ill. Adm. Code 310)
-First Notice Published: 30 Ill. Reg. 1937 – 2/17/06
-Expiration of Second Notice: 5/27/06

Elections

12. The Campaign Financing Act (26 Ill. Adm. Code 100)
-First Notice Published: 29 Ill. Reg. 19360 – 12/2/05
-Expiration of Second Notice: 5/20/06

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

13. Practice and Procedure (26 Ill. Adm. Code 125)
-First Notice Published: 29 Ill. Reg. 20143 – 12/16/05
-Expiration of Second Notice: 5/27/06

Financial and Professional Regulation

14. Real Estate License Act of 2000 (68 Ill. Adm. Code 1450)
-First Notice Published: 29 Ill. Reg. 17959 – 11/4/05
-Expiration of Second Notice: 5/27/06

Human Services

15. Office of Inspector General Adults with Disabilities Abuse Project (59 Ill. Adm. Code 51)
-First Notice Published: 29 Ill. Reg. 19807 – 12/9/05
-Expiration of Second Notice: 5/18/06

16. Related Program Provisions (89 Ill. Adm. Code 117)
-First Notice Published: 29 Ill. Reg. 20302 – 12/16/05
-Expiration of Second Notice: 5/24/06

Labor

17. Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120)
-First Notice Published: 29 Ill. Reg. 19082 – 11/28/05
-Expiration of Second Notice: 5/20/06

Natural Resources

18. Competitive Tournament Fishing on State Owned and/or Leased Water Areas (17 Ill. Adm. Code 115)
-First Notice Published: 30 Ill. Reg. 2581 – 3/3/06
-Expiration of Second Notice: 6/2/06

19. Off-Highway Vehicle Recreational Trails Grant Program (17 Ill. Adm. Code 3045)
-First Notice Published: 30 Ill. Reg. 2584 – 3/3/06
-Expiration of Second Notice: 6/2/06

Property Tax Appeal Board

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

20. Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 Ill. Adm. Code 1910)
    -First Notice Published: 30 Ill. Reg. 1816 – 2/10/06
    -Expiration of Second Notice: 5/27/06

21. Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 Ill. Adm. Code 1910)
    -First Notice Published: 30 Ill. Reg. 2466 – 2/24/06
    -Expiration of Second Notice: 6/2/06

Public Health

22. Local Health Protection Grant Rules (77 Ill. Adm. Code 615)
    -First Notice Published: 29 Ill. Reg. 18269 – 11/14/05
    -Expiration of Second Notice: 5/26/06

23. Manufactured Home Community Code (77 Ill. Adm. Code 860)
    -First Notice Published: 29 Ill. Reg. 18276 – 11/14/05
    -Expiration of Second Notice: 5/20/06

24. Manufactured Home Tiedown Code (Repealer) (77 Ill. Adm. Code 870)
    -First Notice Published: 29 Ill. Reg. 18340 – 11/14/05
    -Expiration of Second Notice: 5/20/05

25. Manufactured Home Installation Code (77 Ill. Adm. Code 870)
    -First Notice Published: 29 Ill. Reg. 18297 – 11/14/05
    -Expiration of Second Notice: 5/20/05

26. Manufactured Housing and Mobile Structures (77 Ill. Adm. Code 880)
    -First Notice Published: 29 Ill. Reg. 18350 – 11/14/05
    -Expiration of Second Notice: 5/20/06

27. Manufactured Home Installer Course Accreditation Code (Repealer) (77 Ill. Adm. Code 885)
    -First Notice Published: 29 Ill. Reg. 18385 – 11/14/05
    -Expiration of Second Notice: 5/20/06

Revenue

28. Income Tax (86 Ill. Adm. Code 100)
    -First Notice Published: 30 Ill. Reg. 95 – 1/6/06

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

-Expiration of Second Notice: 5/17/06

29. Uniform Penalty and Interest Act (86 Ill. Adm. Code 700)
-First Notice Published: 29 Ill. Reg. 20742 – 12/30/05
-Expiration of Second Notice: 5/17/06

Secretary of State

30. Public Library Construction Grants (23 Ill. Adm. Code 3060)
-First Notice Published: 30 Ill. Reg. 2093 – 2/17/06
-Expiration of Second Notice: 5/20/06

State Police Merit Board

31. Procedures of the Department of State Police Merit Board (80 Ill. Adm. Code 150)
-First Notice Published: 30 Ill. Reg. 2109 – 2/17/06
-Expiration of Second Notice: 5/21/06

State Toll Highway Authority

32. State Toll Highway Rules (92 Ill. Adm. Code 2520)
-First Notice Published: 29 Ill. Reg. 19819 – 12/9/05
-Expiration of Second Notice: 5/23/06

EMERGENCY RULEMAKINGS

Healthcare and Family Services

33. Hospital Services (89 Ill. Adm. Code 148)
-Notice Published: 30 Ill. Reg. 7786 – 4/21/06

Human Services

34. Food Stamps (89 Ill. Adm. Code 121)
-Notice Published: 30 Ill. Reg. 7804 – 4/21/06

Secretary of State

35. Illinois Safety Responsibility Law (92 Ill. Adm. Code 1070)
-Notice Published: 30 Ill. Reg. 7974 – 4/28/06

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MAY AGENDA

PEREMPTORY RULEMAKING

Central Management Services

36. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 30 Ill. Reg. 6409 – 4/14/06

AGENCY RESPONSES

Education

37. Education Purchasing Program (44 Ill. Adm. Code 1110; 29 Ill. Reg. 6813)

Healthcare and Family Services

38. Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153; 30 Ill. Reg. 616)

JOINT COMMITTEE ON ADMINISTRTIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of April 18, 2006 through April 24, 2006 and have been scheduled for review by the Committee at its May 9, 2006 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
6/2/06	Property Tax Appeal Board, Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 Ill. Adm. Code 1910)	2/24/06 30 Ill. Reg. 2466	5/9/06
6/2/06	Department of Natural Resources, Competitive Tournament Fishing on State Owned and/or Leased Water Areas (17 Ill. Adm. Code 115)	3/3/06 30 Ill. Reg. 2581	5/9/06
6/2/06	Department of Natural Resources, Off-Highway Vehicle Recreational Trails Grant Program (17 Ill. Adm. Code 3045)	3/3/06 30 Ill. Reg. 2584	5/9/06
6/3/06	Department of Central Management Services, Conditions of Employment (80 Ill. Adm. Code 303)	11/28/05 29 Ill. Reg. 19000	5/9/06

STATE BOARD OF EDUCATION

NOTICE OF REFUSAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) Heading of the Part: Education Purchasing Program

2) Code Citation: 44 Ill. Adm. Code 1110

3)

Section Numbers:	Action:
1110.10	Refusal
1110.20	Refusal
1110.30	Refusal
1110.35	Refusal
1110.40	Refusal
1110.50	Refusal
1110.60	Refusal
1110.70	Refusal
1110.80	Refusal
1110.90	Refusal
1110.100	Refusal
1110.110	Refusal

4) Date Notice of Proposed Rules Published in the Register: May 13, 2005; 29 Ill. Reg. 6813

5) Date JCAR Statement of Objection Published in the Register: April 28, 2006; 30 Ill. Reg. 7982

6) Summary of Action Taken by the Agency:

JCAR objected to ISBE's certification of several education purchasing contracts prior to the adoption of this rulemaking. ISBE notes that, absent the provisions of Part 1110, school districts and the other entities covered by this Part possessed sufficient authority for use of the types of contracts that are discussed, making certification by the agency unnecessary as a prerequisite to participation in those contracts by those educational entities. ISBE, therefore, wishes to clarify that no action was made possible by its certification of contracts that could not have occurred without that certification.

However, ISBE does acknowledge the basis for this objection in that the rulemaking process should have been completed before the issuance of any certifications. ISBE regrets this procedural error.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2006 FIRST QUARTER INCOME TAX SUNSHINE INDEX

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

   Name of Act: Illinois Department of Revenue Sunshine Act
   Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

   Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the First Quarter of 2006. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

   The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

   Amnesty
   Credits – Other Rulings
   Miscellaneous
   Subtraction Modifications – Pensions
   Withholding – Other Rulings

   Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1.00 per opinion plus 50 cents per page for each page over one.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2006 FIRST QUARTER INCOME TAX SUNSHINE INDEX

Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us.

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004 and 2005 are available for $3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for $4.00.

3. Name and address of person to contact concerning this information:

Linda Settle
Illinois Department of Revenue
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-7055

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2006 FIRST QUARTER INCOME TAX SUNSHINE INDEX

AMNESTY

IT 06-0002-PLR 03/09/2006 Taxpayer whose liability for an amnesty year resulted from a disposition after the amnesty period of stock received in a reorganization in the amnesty year did not qualify for amnesty because the liability was created by the disposition. Accordingly, any interest and penalties attributable to the liability are not doubled.

CREDITS – OTHER RULINGS

IT 06-0001-PLR 01/17/2006 A partner is entitled to the portion of the film production services credit shown on the final certificate issued by DCEO that is allocated to it by the partnership agreement.

IT 06-0003-GIL 01/24/2006 An institution that provides only preschool and kindergarten-level education is not a school qualifying for the education expense credit.

MISCELLANEOUS

IT 06-0004-GIL 03/01/2006 The Department of Revenue cannot provide guidance regarding whether "local law" prohibits the claiming of a person as a dependent for federal income tax purposes.

SUBTRACTION MODIFICATIONS – PENSIONS

IT 06-0001-GIL 01/03/2006 Illinois does not tax pensions of nonresident individuals.

WITHHOLDING – OTHER RULINGS

IT 06-0002-GIL 01/03/2006 Explanation of the quarter-monthly deposit requirement for withholding.

2006-140
INFANT IMMUNIZATION AWARENESS WEEK

WHEREAS, vaccines were named among the 20th Century's most successful and cost-effective public health tools available for preventing disease and death; and

WHEREAS, immunizations are one of the most important ways parents can protect their children against serious diseases; and

WHEREAS, children need a series of vaccinations, starting at birth, to be fully protected against 12 potentially serious diseases; and

WHEREAS, national immunization levels are at or near record highs for most vaccines and most vaccine-preventable diseases have been reduced by 99 percent or more since the introduction of vaccines; and

WHEREAS, National Infant Immunization Week (NIIW) focuses local and national attention on the importance of timely and proper immunization for infants and toddlers 24 months and under; and

WHEREAS, in the twelve years since its inception, NIIW has served as a call to parents, caregivers, and healthcare providers to participate in activities and events to increase the awareness of immunizing children before their 2nd birthday; and

WHEREAS, the Illinois Department of Public Health has partnered with local health departments, the Illinois Chapter of American Academy of Pediatrics, local child health coalitions, the Chicago Area Immunization Campaign and the Illinois Health Education Consortium to promote and support immunization activities throughout the state; and

WHEREAS, the week of April 22 – 29, 2006 has been declared National Infant Immunization Week to help ensure that children receive all recommended vaccinations by the age of 2:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim the week of April 22 – 29, 2006 as **INFANT IMMUNIZATION AWARENESS WEEK** in Illinois, and encourage all citizens to spread the immunization message throughout their communities, and urge public and private health care providers, parents, and children's caregivers in Illinois to advance the health of children by ensuring early and on-time immunization against preventable childhood diseases.

Issued by the Governor on April 18, 2006.

Filed by the Secretary of State April 18, 2006.

2006-141
EQUAL PAY DAY

WHEREAS, forty years after the passage of the Equal Pay Act and Title VII of the Civil Rights Act, women and people of color continue to suffer the consequences of inequitable pay differentials; and

WHEREAS, according to statistics released in 2005 by the U.S. Census Bureau, year-round, full-time working women in 2004 earned only 77% of the earnings of year-round, full-time working men, indicating little change or progress in pay equity; and

WHEREAS, according to a January 2002 report released by the General Accounting Office (the investigative arm of Congress), women managers in 7 of 10 industries surveyed actually lost ground in closing the wage gap between 1995 and 2000; and

WHEREAS, according to an analysis of data in over 300 classifications provided by the U.S. Department of Labor Statistics in 2001, women earn less in every occupational classification for which enough data is available, including occupations dominated by women (e.g., cashiers, retail sales, registered nurses and teachers); and

WHEREAS, higher education is not free from wage discrimination according to a U.S. Department of Education analysis, reporting that, after controlling for rank, age, credentials, field of study and other factors, full-time female faculty members earn nearly 9% less than their male counterparts; and

WHEREAS, over a working lifetime, this wage disparity costs the average American woman and her family an estimated $523,000 in lost wages, impacting Social Security benefits and pensions; and

WHEREAS, fair pay equity policies can be implemented simply and without undue costs or hardship in both the public and private sectors. It also strengthens the security of families today and eases future retirement costs, while enhancing the American economy; and

WHEREAS, in Illinois, the Equal Pay Bill was signed in 2003, which provides that no employer may pay wages solely on the basis of the employee's gender, and it expands the federal Equal Pay Act to cover employers with four or more employees, rather than 15. In conjunction with efforts to educate employees and

employers about the Equal Pay Act of 2003, the state launched a toll-free number, 1-866-EPA-IDOL; and

WHEREAS, Tuesday, April 25th symbolizes the time in the new year in which the wages paid to American women catch up to the wages paid to men from the previous year:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 25, 2006 as EQUAL PAY DAY in Illinois, and urge all citizens to recognize the full value of women's skills and significant contributions to the labor force, and further encourages businesses to conduct an internal pay evaluation to ensure women are being paid fairly.

Issued by the Governor on April 18, 2006.
Filed by the Secretary of State April 18, 2006.

2006-141
ILLINOIS EQUAL PAY DAY (Revised)

WHEREAS, more than forty years after the passage of the Equal Pay Act and Title VII of the Civil Rights Act, women and people of color continue to suffer the consequences of inequitable pay differentials; and

WHEREAS, according to statistics released in 2005 by the U.S. Census Bureau, year-round, full-time working women in 2004 earned only 77% of the earnings of year-round, full-time working men, indicating little change or progress in pay equity; and

WHEREAS, according to a January 2002 report released by the General Accounting Office (the investigative arm of Congress), women managers in 7 of 10 industries surveyed actually lost ground in closing the wage gap between 1995 and 2000; and

WHEREAS, over a working lifetime, this wage disparity costs the average American woman and her family an estimated $523,000 in lost wages, impacting Social Security benefits and pensions; and

WHEREAS, equal pay for equal work strengthens the security of families today and eases future retirement costs, while enhancing Illinois' economy; and

WHEREAS, Tuesday, April 25th symbolizes the time in the new year in which the wages paid to American women catch up to the wages paid to men from the previous year; and

WHEREAS, in 2003, Illinois enacted the Illinois Equal Pay Act prohibiting employers with four or more employees from paying unequal wages to men and women for doing the same or substantially similar work:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 25, 2006 as **ILLINOIS EQUAL PAY DAY** in Illinois and call for all citizens to recognize the full value of women's skills and significant contributions to the labor force, and all employers to provide equal pay for equal work, both as a matter of fairness and as a matter of good business.

Issued by the Governor on April 20, 2006.
Filed by the Secretary of State April 20, 2006.

2006-142
PROBATION AND COURT SERVICES OFFICER DAY

WHEREAS, the safety of Illinois citizens and the rights of crime victims require a competent and thorough administration of the criminal justice system; and

WHEREAS, Illinois law requires that all counties must provide full-time probation and court services, and offer a wide range of sentencing options and a continuum of sanctions to protect and safeguard every Illinois community; and

WHEREAS, the continuum of sanctions provided by Illinois probation and courts services departments include: pre-trial investigations and supervision, intensive supervision, juvenile intake screening, home confinement, detention, electronic monitoring, community service, teen courts, drug monitoring, drug courts, community corrections, pre-sentencing investigations, and specialized services for crime victims like dispute resolution and collection of restitution, among many other services; and

WHEREAS, probation and court service professionals work in collaboration with police, prosecutors, the circuit court, and community organizations to provide supervision, programs and services to both juvenile and adult offenders; and

WHEREAS, more than 100,000 juvenile and adult offenders are currently sentenced to a continuum of sanctions, receive active probation supervision, or are participating in court-ordered programs; and

WHEREAS, more than 3,000 dedicated probation, detention, and court services officers supervise the vast majority of Illinois' juvenile and adult offenders; and

WHEREAS, these probation, detention, and court services officers work in a professional and diligent manner and continuously seek avenues to improve the administration of criminal justice in Illinois and work to improve their job performance with continuing education at the Spring Conference of the Illinois Probation and Court Services Association in Springfield:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 26, 2006 as **PROBATION AND COURT SERVICES OFFICER DAY** in Illinois.

Issued by the Governor on April 20, 2006.
Filed by the Secretary of State April 20, 2006.

2006-143
MELANOMA/SKIN CANCER DETECTION AND PREVENTION MONTH

WHEREAS, the skin of a person is the largest and most visible organ of the human body and performs many essential tasks; and

WHEREAS, more than 1 million new cases of skin cancer will be diagnosed in the United States this year, with 111,900 Americans developing melanoma - the deadliest form of skin cancer; and

WHEREAS, 75 percent of all skin cancer deaths are from melanoma, and one person dies almost every hour from melanoma. In fact, more than 7,910 people are expected to die of melanoma this year; and

WHEREAS, melanoma and other skin cancers, if detected early through skin self-examinations, are highly treatable; and

WHEREAS, sources of skin cancer typically develop from external environmental factors such as overexposure to the sun and to ultraviolet rays, therefore suggesting that it is preventable; and

WHEREAS, the State of Illinois is proud to join in the many efforts taking place to raise awareness of ways in which we can prevent skin cancer from affecting our lives, and the lives of our families:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2006 as **MELANOMA/SKIN CANCER DETECTION AND PREVENTION MONTH** in Illinois, and encourage all citizens to be aware of the importance of skin cancer prevention, early detection, and treatment.

Issued by the Governor on April 20, 2006.
Filed by the Secretary of State April 20, 2006.

2006-144
ILLINOIS COMMISSION ON VOLUNTEERISM AND COMMUNITY SERVICE WEEK

WHEREAS, "Inspire By Example" is the theme for the 2006 Annual Volunteer Week; and

WHEREAS, a volunteer is someone that performs charitable or helpful tasks without pay; and

WHEREAS, one person can effect a positive change with just a single volunteer action, no matter how big or small; and

WHEREAS, the basis for a safe and productive nation is the willingness of citizens to work together, without prejudice, to find solutions to the everyday struggles of our society; and

WHEREAS, the United States is blessed with men and women who selflessly dedicate their time and energy to performing acts of good will and improving the quality of life for all people; and

WHEREAS, in Illinois, my Commission on Volunteerism and Community Service strives to improve our communities by supporting volunteer and community service efforts throughout the state; and

WHEREAS, the annual observance of National Volunteer Week allows all citizens the opportunity to recognize and thank the compassionate and caring nature of our citizens:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 23 – 29, 2006 as **ILLINOIS COMMISSION ON VOLUNTEERISM AND COMMUNITY SERVICE WEEK** in Illinois, and urge all citizens to promote the spirit of volunteerism in our families and communities by expressing their gratitude to the noble volunteers across our state.

Issued by the Governor on April 20, 2006.
Filed by the Secretary of State April 20, 2006.

2006-145
HEPATITIS C AWARENESS AND EDUCATION MONTH

WHEREAS, hepatitis C is a "silent epidemic" and is the most common chronic blood-borne viral infection in the United States; and

WHEREAS, hepatitis C has been characterized by the World Health Organization as a disease of primary concern to humanity and currently infects approximately 3.9 million people in the United States; each year there are approximately 25,000 new infections nationwide; and

WHEREAS, hepatitis C is now one of the leading causes of liver disease, placing infected individuals at elevated risk for chronic liver disease, liver cancer, liver transplantation, and other hepatitis C virus-related illnesses; and

WHEREAS, the National Institute of Health estimates that approximately 10,000 to 12,000 persons die annually from the consequences of Hepatitis C, and this number continues to grow each year; and

WHEREAS, hepatitis C infection is three to four times more prevalent in the United States than HIV/AIDS and approximately one-fourth of all HIV-infected persons are co-infected with hepatitis C; and

WHEREAS, approximately 60-70 percent of hepatitis C virus-infected persons are chronically infected, and few of those are aware that they are infected since symptoms often do not develop until 10 to 20 years after the infection is contracted; and

WHEREAS, in Illinois, there are 250,000 estimated unidentified hepatitis C-infected persons Statewide based on a 2001 passive surveillance and national prevalence statistics; and

WHEREAS, educating the public and health care community throughout the State about hepatitis C will ensure an optimal approach to controlling this potentially lethal disease:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2006 as **HEPATITIS C AWARENESS AND EDUCATION MONTH** in Illinois, and encourage all citizens to become learn more about the risk factors associated with hepatitis C.

Issued by the Governor on April 20, 2006.
Filed by the Secretary of State April 20, 2006.

2006-146
BRAIN TUMOR ACTION WEEK

WHEREAS, this year marks the 9th Annual Brain Tumor Action Week sponsored by the North American Brain Tumor Coalition; and

WHEREAS, every five minutes another American is diagnosed with a brain tumor, representing more than 190,000 people in the United States each year; and

WHEREAS, progress continues because of dedicated researchers, and because of charitable organizations, such as the ones in the North American Brain Tumor Coalition, that are committed to the eradication of brain tumors through raising awareness and advocating for increased research funding; and

WHEREAS, brain tumor patients now have hope and options available to them because of promising new treatments; and

WHEREAS, there is still much to be done to assure effective treatment for all brain tumor patients; and

WHEREAS, the State of Illinois is proud to join the North American Brain Tumor Coalition in an effort to raise awareness and to support all of the patients and families affected by this disease:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim May 1-7, 2006 as **BRAIN TUMOR ACTION WEEK** in Illinois, and urge all citizens to join me in support for continued progress in the fight against brain tumors.

Issued by the Governor on April 20, 2006.
Filed by the Secretary of State April 20, 2006.

2006-147
IN RECOGNITION OF RAFAEL PULIDO

WHEREAS, broadcast in Chicago, Illinois on WOJO "LA Que Buena" 105.1 FM, Rafael Pulido, who is popularly known as "El Pistolero", has successfully established a substantial and loyal listening audience for his weekday morning radio show in Chicago, as well as throughout the State and nation; and

WHEREAS, having been born in Mexico and with previous successes in Oregon and California, Rafael Pulido has been well prepared to entertain, inform and serve the people of Mexican origin who live in Chicago for whom he has proven and used his success to raise funds for families in need, respond to his community's emergencies, as well as raise thousands of dollars for Hurricane Katrina Victims; and

WHEREAS, demonstrating his ability to discuss controversial issues, Rafael Pulido was able to raise the consciousness in Chicago and across the nation in order to defeat anti-immigrant legislation HR 4437 that would have criminalized undocumented immigrant families and anyone who would provide support to them; and.

WHEREAS, as a consistent advocate for family unity, Rafael Pulido has given notice to the movement to stop the separation of families due to harshly enforced and excessively stringent immigration laws; and

WHEREAS, Rafael Pulido has used his success and popularity to call for the massive immigrant March on March 10th that mobilized over 500,000 U.S. Citizens, Legal Residents, and undocumented together from all nationalities in unity; and

WHEREAS, Rafael Pulido and his team, including his partner Abel Vences and team members Gregorio Villanueva, Julio Hernandez, and Ruben Lomely, have been fundamental in spiriting the nationwide movement and mobilizations that are still taking place across the country:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby recognize and commend Rafael Pulido for his tireless commitment and contributions to entertain, inform, and defend human rights, and I encourage all citizens to join in acknowledging this great man.

Issued by the Governor on April 20, 2006.
Filed by the Secretary of State April 20, 2006.

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