2007 ILLINOIS REGISTER

RULES OF GOVERNMENTAL AGENCIES

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INTRODUCTION

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

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

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

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

2007 REGISTER SCHEDULE VOLUME #31

Issue #	Rules Due Date	Date of Issue
1	December 26, 2006	January 5, 2007
2	January 2, 2007	January 12, 2007
3	January 8, 2007	January 19, 2007
4	January 16, 2007	January 26, 2007
5	January 22, 2007	February 2, 2007
6	January 29, 2007	February 9, 2007
7	February 5, 2007	February 16, 2007
8	February 13, 2007	February 23, 2007
9	February 20, 2007	March 2, 2007
10	February 26, 2007	March 9, 2007
11	March 5, 2007	March 16, 2007
12	March 12, 2007	March 23, 2007
13	March 19, 2007	March 30, 2007
14	March 26, 2007	April 6, 2007
15	April 2, 2007	April 13, 2007
16	April 9, 2007	April 20, 2007
17	April 16, 2007	April 27, 2007
18	April 23, 2007	May 4, 2007
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20	May 7, 2007	May 18, 2007
21	May 14, 2007	May 25, 2007
22	May 21, 2007	June 1, 2007
23	May 29, 2007	June 8, 2007

24	June 4, 2007	June 15, 2007
Issue #	**Rules Due Date**	**Date of Issue**
25	June 11, 2007	June 22, 2007
26	June 18, 2007	June 29, 2007
27	June 25, 2007	July 6, 2007
28	July 2, 2007	July 13, 2007
29	July 9, 2007	July 20, 2007
30	July 16, 2007	July 27, 2007
31	July 23, 2007	August 3, 2007
32	July 30, 2007	August 10, 2007
33	August 6, 2007	August 17, 2007
34	August 13, 2007	August 24, 2007
35	August 20, 2007	August 31, 2007
36	August 27, 2007	September 7, 2007
37	September 4, 2007	September 14, 2007
38	September 10, 2007	September 21, 2007
39	September 17, 2007	September 28, 2007
40	September 24, 2007	October 5, 2007
41	October 1, 2007	October 12, 2007
42	October 9, 2007	October 19, 2007
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45	October 29, 2007	November 12, 2007
46	November 5, 2007	November 16, 2007
47	November 12, 2007	November 26, 2007
48	November 19, 2007	December 1, 2006
49	November 26, 2007	December 7, 2007
50	December 3, 2007	December 14, 2007
51	December 10, 2007	December 21, 2007
52	December 17, 2007	December 28, 2007

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Placement and Visitation Services

2) Code Citation: 89 Ill. Adm. Code 301

3)

Section Numbers:	Proposed Action:
301.90	Amend
301.120	Amend

4) Statutory Authority: 20 ILCS 505

5) A complete description of the subjects and issues involved: The Department is amending this Part to implement a portion of P.A. 94-1010. Children in foster care who have emotional, behavioral, developmental or medical needs or a combination of these, will be provided specialized care when such care is required to maintain the child in foster care or a permanency setting. Children may be eligible to receive similar or the same types of services that were provided in specialized care if they are adopted with adoption assistance with adoption assistance or guardianship is transferred with a subsidy. Child and Youth Investment Teams (CAYIT) or Department clinical staff will make determinations that a child needs specialized care. Caregivers will be required to complete 12 hours of training per year on caring for children or youth who require specialized care, which is separate from the training hours required for licensure or licensure renewal.

P.A. 94-1010 also amended the Children and Family Services Act and the Foster Parent Law, clarifying the language describing the information that caseworkers are required to provide prospective adoptive parents, parents, foster parents or other caregivers and establishing timeframes for the provision of the information. Additionally, this new legislation requires the caseworker to obtain from the caregiver signed verification that the information was provided and to provide the same information to the guardian ad litem.

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 CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

12) Time, place and manner in which interested parties may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 East Monroe, Station #65
Springfield, Illinois 62701-1498

Telephone:	217/524-1983
TDD:	217/524-3715
FAX:	217/557-0692
E-Mail address:	cfpolicy@idcfs.state.il.us

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

13) Initial regulatory flexibility analysis: The Department has determined that the proposed amendment will not have an economic impact on small businesses.

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 301
PLACEMENT AND VISITATION SERVICES

Section
301.1 Purpose (Renumbered)
301.2 Definition (Repealed)
301.3 Foster Care Placement Goal (Renumbered)
301.4 Plans to Achieve This Goal (Renumbered)

SUBPART A: PLACEMENT SERVICES

Section
301.10 Purpose
301.20 Definitions
301.30 Introduction
301.40 Legal Authority to Place
301.50 Emergency Placement
301.60 Placement Selection Criteria
301.70 Sibling Placement
301.80 Relative Home Placement
301.90 Foster Family Home Care
301.100 Residential Care
301.110 Care in a Medical/Psychiatric Facility
301.120 Sharing Appropriate Information with the Caregiver
301.130 Medical Examinations for Children in Placement
301.140 Education of Children While in Placement

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301.200 Purpose
301.210 Family-Child Visitation
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DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: FOSTER CARE PLACEMENT GOAL

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301.310 Purpose
301.320 Foster Care Placement Goal
301.330 Plans to Achieve This Goal

SUBPART D: FOSTER PARENT/RELATIVE CAREGIVER IDENTIFYING INFORMATION

Section
301.410 Purpose
301.420 Confidentiality of Foster Parent/Relative Caregiver Identifying Information
301.430 Routine Disclosure of Foster Parent/Relative Caregiver Identifying Information
301.440 Specific Disclosure of Foster Parent/Relative Caregiver Identifying Information
301.450 Specific Notice of Disclosure
301.460 Disclosure Prohibited
301.470 Redisclosure Prohibited

301.APPENDIX A Criminal Convictions which Prevent Placement of Children with Relatives

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; Section 1-103 of the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/1-103]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 7 Ill. Reg. 881, effective January 12, 1983; amended at 9 Ill. Reg. 9904, effective July 1, 1985; amended at 19 Ill. Reg. 9438, effective July 1, 1995; emergency amendment at 20 Ill. Reg. 3961, effective February 16, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 4602, effective March 15, 1996; amended at 20 Ill. Reg. 9036, effective July 11, 1996; amended at 20 Ill. Reg. 9518, effective July 5, 1996; amended at 21 Ill. Reg. 13580, effective October 1, 1997; amended at 23 Ill. Reg. 13062, effective October 20, 1999; emergency amendment at 24 Ill. Reg. 6427, effective March 27, 2000, for a maximum of 150 days; emergency expired August 23, 2000; amended at 25 Ill. Reg. 841, effective January 5,

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

2001; amended at 25 Ill. Reg. 11803, effective September 14, 2001; amended at 26 Ill. Reg. 11739, effective August 1, 2002; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: PLACEMENT SERVICES

Section 301.90 Foster Family Home Care

a) Foster family home care is provided in licensed foster family homes for children who cannot remain in the home and who can benefit from a family structure of care. The Department shall have legal responsibility for the child before the child is placed in a foster family home. The home shall have received a license or permit under the provisions of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, before it receives children for foster care payment.

b) For children who have emotional, behavioral, developmental or medical needs, or a combination of these, the Department shall provide specialized care when such care is required to maintain the child in foster care or a permanency setting. Children may be eligible to receive similar or the same types of services that were provided in specialized care if they are adopted with a subsidy or if guardianship is transferred with a subsidy.

1) The determination that a child requires specialized care, including a different level of care, shall be based on:

A) The results of the Child and Adolescent Needs and Strengths assessment (CANS); and

B) Either:

i) The recommendations of the Child and Youth Investment Team (CAYIT) or Department clinical staff developed at a staffing convened specifically to address the emotional, behavioral, developmental or medical needs, or a combination of these, that may jeopardize stability in the child's placement; or

ii) The determination by a child protection investigator, at the time the Division of Child Protection takes custody of a child new to care, that the child presents with special needs.

2) The CANS shall be administered to identify the child's needs and strengths and to support service planning, quality improvement activities, and outcomes monitoring.

3) The CANS shall assess the following child traits, domains and functioning:

A) Trauma Experiences;

B) Trauma Stress Symptoms;

C) Child Strengths;

D) Life Domain Functioning;

E) Acculturation;

F) Child Behavioral/Emotional Needs;

G) Child Risk Behaviors.

4) Once a child is determined to be eligible for specialized care, the case management agency shall assess the foster parents with whom the child is placed or may be placed for the ability, experience and willingness to:

A) Support visitation with parents, siblings or members of the extended family;

B) Care for a child who has complex health problems, e.g., a child who has a seizure disorder or asthma, uses a wheel chair, requires a feeding tube, is visually impaired or has a speech impairment;

C) Care for a child who has a developmental, emotional, psychological or mental health disorder such as compulsive behaviors, mental retardation, substance abuse problems or mental illness;

D) Transport the child to and from required treatment or services and

participate in treatment or services when beneficial to the child.

5) Other factors that shall be considered in selecting a child's placement are those specified in this Part and in 89 Ill. Adm. Code 302 (Services Delivered by the Department).

6) Caregivers shall complete 12 hours per year of training on caring for children or youth who require specialized care, which is separate from the training hours required for licensure or licensure renewal. The supervising agency is responsible for providing this training and/or identifying training resources to meet this requirement and for ensuring that any additional training required to meet the needs of the child or youth is available to caregivers.

7) Specialized care shall be individualized, based on the unique needs of the child or youth who requires it. The findings of the CANS shall be incorporated into the treatment and service planning process.

8) Based on the results of the CANS and the results of the CAYIT or clinical staffing, the CAYIT or Department clinical staff shall develop recommendations regarding the services or supports required to address the child's emotional, behavioral, developmental or medical needs and to stabilize and maintain the child or youth in his or her current placement.

9) The CAYIT or clinical staff shall continue to monitor implementation of the CAYIT action plan or service plan until all of the recommendations developed at the staffing are implemented.

10) If the child's or youth's needs cannot be met in his or her current placement setting even with additional services and/or supports, the CAYIT or Department clinical staff shall develop recommendations regarding services, interventions and placement settings best able to meet the child's or youth's needs.

11) Ongoing review and monitoring of the child's service plan shall occur through Administrative Case Reviews.

12) For children or youth receiving specialized care, the CANS shall be completed around the Administrative Case Review or quarterly treatment

planning cycle.

c~~b~~) Although foster family home care is generally provided to children whose parents are unable or unwilling to protect or care for them, it is also available for hearing impaired children who require special education not available in their home communities. The Department is not legally responsible for the children receiving this unique placement service. Care is provided in cooperation with the Illinois State Board of Education.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 301.120 Sharing Appropriate Information with the Caregiver

a) At the time the caseworker~~Department~~ places a child with a prospective adoptive parent, foster parent or other caregiver, including those in a group home, child care institution, or relative home,~~in foster care or other substitute care setting~~ or prior to the placement of the child if~~, whenever~~ possible, the worker~~Department~~ shall provide to the caregiver, in writing, available information about the child necessary for the proper care of the child~~to the foster parent or other caregiver~~.

b) The~~This~~ information to be provided to the caregiver shall include~~includes~~:

1) the medical history of the child including known medical problems or communicable diseases, information concerning the immunization status of the child, and insurance and medical card information;

2) the educational~~school~~ history of, and current and proposed educational services for, the child, including any special educational needs and details of the applicable Individualized Education Plan (IEP), Individualized Family Service Plan (IFSP) or 504 Educational Special Needs Plan;

3) a copy of the child's portion of the client service plan, including any visitation arrangements and all amendments or revisions;~~,~~ case history of the child, including how the child came into care;~~,~~ the child's legal status;~~,~~ the permanency goal for the child;~~ and~~ a history of the child's previous placements;~~, criminal history, if any,~~ and reasons for placement changes, excluding information that identifies or reveals the location of any previous foster or relative home caregiver; and

4) other relevant background information of the child, including any prior criminal history; information about any behavior problems, including fire setting, perpetration of sexual abuse, destructive behavior and substance abuse habits; and~~, any prior criminal history, habits,~~ likes, dislikes, etc.

c) In advance of placement, the caseworker may provide the adoptive parent or other caregiver with a written summary of the information listed in subsection (b).

d) In the case of an emergency placement, when all of the above-referenced information may not be available, the worker shall provide known information verbally as it becomes available and, within 10 days after the child's placement, shall provide this information in writing to the caregiver and the child's guardian ad litem.

e) The worker shall obtain from the prospective adoptive parent, foster parent or other caregiver signed verification of receipt of the information described in subsection (b) and forward a copy of the information to the child's guardian ad litem.

f) Supervisory review and approval is required prior to providing any information to the prospective adoptive parent, foster parent, parent or other caregiver.

~~c) Information subject to the Mental Health and Developmental Disabilities Confidentiality Act shall be shared only in accordance with 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department, Section 431.100.~~

~~d) Information regarding Acquired Immunodeficiency Syndrome (AIDS), AIDS Related Complex (ARC) or Human Immunodeficiency Virus (HIV) test results, shall be shared only in accordance with 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served By the Department, Section 431.110.~~

~~e) When the information in subsections (b), (c) and (d) is not available at the time of placement, the caregiver shall be given what information is available and advised that additional information will be provided when it is received.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: General Administrative Provisions

2) Code Citation: 89 Ill Adm. Code 10

3) Section Number: 10.250 Proposed Action: Amendment

4) Statutory Authority: Implementing Article I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. I through IX and 12-13]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking affects Human Capital Development. This proposed rulemaking is a Departmental decision to implement an optional part of the federal Farm Bill to simplify the change reporting requirements to improve payment accuracy. As a result of this rulemaking, non-assistance food stamp only households, except those households defined in 89 Ill. Adm. Code Section 121.125(b), will have their eligibility redetermined every six months alternating between a face-to-face interview and a mail-in redetermination form. This rulemaking will also change the 12-month certification period for a small number of households to every six months.

These revisions in change reporting requirements will be beneficial to these households because it will simplify their change reporting requirements and the benefit level of these households will not be subject to as much fluctuation as under current reporting requirements. During the six months between redeterminations, these households will only be required to report a change of circumstances when the household's gross income exceeds the household's gross income limit (130% of the Federal Poverty Level).

Companion amendments are being proposed to 89 Ill. Adm. Code 121.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand 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 these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

217/785-9772

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 2007

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 10
GENERAL ADMINISTRATIVE PROVISIONS

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10.101 Incorporation by Reference
10.110 Applicability
10.120 Definitions
10.130 Assistance Programs
10.140 Assistance Program Restrictions

SUBPART B: RIGHTS AND RESPONSIBILITIES

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10.220 Nondiscrimination
10.225 Grievance Rights of Clients
10.230 Confidentiality of Case Information
10.235 Case Records
10.250 Reporting Change of Circumstances
10.263 Reporting Child Abuse/Neglect
10.268 Reporting Elder Abuse/Neglect
10.270 Notice to Client
10.280 Right to Appeal
10.281 Continuation of Assistance Pending Appeal
10.282 Time Limit for Filing an Appeal
10.283 Examining Department Records
10.284 Child Care
10.290 Voluntary Repayment of Assistance
10.295 Correction of Underpayments
10.300 Recovery of Assistance
10.310 Estate Claims
10.320 Real Property Liens
10.330 Filing and Renewal of Liens
10.340 Foreclosure of Liens

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

10.350 Release of Liens
10.360 Personal Injury Claims
10.370 Convictions of Fraud - Eligibility
10.380 Single Conviction of Fraud - Administrative Review Board

SUBPART C: APPLICATION PROCESS

Section
10.410 Application for Assistance
10.415 Local Office Action on Application for Public Assistance
10.420 Time Limitations on the Disposition of an Application
10.430 Approval of an Application and Initial Authorization of Financial Assistance
10.438 General Assistance Approval Provisions
10.440 Denial of an Application

AUTHORITY: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9515, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 15515, effective November 26, 1997; amended at 22 Ill. Reg. 19816, effective November 1, 1998; amended at 23 Ill. Reg. 6944, effective June 1, 1999; amended at 24 Ill. Reg. 7856, effective May 16, 2000; amended at 24 Ill. Reg. 18153, effective November 30, 2000; amended at 25 Ill. Reg. 7170, effective May 24, 2001; amended at 28 Ill. Reg. 1083, effective December 31, 2003; amended at 28 Ill. Reg. 5650, effective March 22, 2004; amended at 29 Ill. Reg. 8148, effective May 18, 2005; amended at 31 Ill. Reg. 6962, effective April 30, 2007; amended at 31 Ill. Reg. 7638, effective May 15, 2007; amended at 31 Ill. Reg. _____, effective _____.

SUBPART B: RIGHTS AND RESPONSIBILITIES

Section 10.250 Reporting Change of Circumstances

a) General
It is the responsibility of the client to report any change in circumstances, including but not limited to household composition or receipt of income or assets that might affect the client's assistance. This information shall be reported to the local office within ten working days after the change or prior to the expenditure of funds received, whichever occurs first. For non-assistance food stamp only households, food stamp households with earned income and TANF cases with earned income, see 89 Ill. Adm. Code 121.125 and 89 Ill. Adm. Code 112.302.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

b) AABD
When an individual other than the recipient maintains the recipient's funds (income and/or assets), it is the responsibility of that individual to report any changes in circumstances to the local office. Any changes that may affect the recipient's continued eligibility for financial assistance, including receipt of lump-sum payments, shall be reported to the local office within ten working days after the change.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Food Stamps

2) Code Citation: 89 Ill Adm. Code 121

3)

Section Numbers:	Proposed Action:
121.10	Amendment
121.120	Amendment
121.125	Amendment

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

5) A Complete Description of the Subjects and Issues involved: This rulemaking affects Human Capital Development. This proposed rulemaking is a Departmental decision to implement an optional part of the federal Farm Bill to simplify the change reporting requirements to improve payment accuracy. As a result of this rulemaking, non-assistance food stamp only households, except those households defined in Section 121.125(b), will have their eligibility redetermined every six months alternating between a face-to-face interview and a mail-in redetermination form. This rulemaking will also change the 12-month certification period for a small number of households to every six months.

These revisions in change reporting requirements will be beneficial to these households because it will simplify their change reporting requirements and the benefit level of these households will not be subject to as much fluctuation as under current reporting requirements. During the six months between redeterminations, these households will only be required to report a change of circumstances when the household's gross income exceeds the household's gross income limit (130% of the Federal Poverty Level).

Companion amendments are being proposed to 89 Ill. Adm. Code 10.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers:	Proposed Action:	Illinois Register Citation:
121.23	Amendment	31 Ill. Reg. 10446; 7/20/07
121.24	Amendment	31 Ill. Reg. 10446; 7/20/07
121.26	Amendment	31 Ill. Reg. 10446; 7/20/07

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand 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 these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

217/785-9772

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 2007

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

PART 121
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121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

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

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

effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150

days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a

maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; peremptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill. Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; peremptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; peremptory amendment at 28 Ill. Reg. 13834, effective October 1, 2004; emergency amendment at 28 Ill. Reg. 15323, effective November 10, 2004, for a maximum of 150 days; emergency expired April 8, 2005; amended at 29 Ill. Reg. 2701, effective February 4, 2005; amended at 29 Ill. Reg. 5499, effective April 1, 2005; peremptory amendment at 29 Ill. Reg. 12132, effective July 14, 2005; emergency amendment at 29 Ill. Reg. 16042, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; peremptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005; emergency amendment at 30 Ill. Reg. 7804, effective April 6, 2006, for a maximum of 150 days; emergency expired September 2, 2006; amended at 30 Ill. Reg. 11236, effective June 12, 2006; amended at 30 Ill. Reg. 13863, effective August 1, 2006; amended at 30 Ill. Reg. 15681, effective September 12, 2006; peremptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006; amended at 31 Ill. Reg. 6991, effective April 30, 2007; amended at 31 Ill. Reg. 10482, effective July 9, 2007; amended at 31 Ill. Reg. 11318, effective July 23, 2007; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: APPLICATION PROCEDURES

Section 121.10 Interviews

a) All applicant households, including those submitting applications by mail, shall have face-to-face interviews in a food stamp office with a qualified eligibility worker prior to initial certification and all redeterminations. For earned income and non-assistance food stamp only households, an interview is required at every other redetermination (see Section 121.125). For persons completing a redetermination using the phone interview system, the automated phone interview

substitutes for the face-to-face interview.

b) Interview Process

1) The individual interviewed may be the head of the household, spouse, any other adult member of the household who is sufficiently familiar with the household's circumstances to be able to assist in the determination of eligibility, or an authorized representative (see Section 121.1(e)(1) and (2)). The applicant may bring any person he/she chooses to the interview. Prior to beginning the interview, the applicant shall indicate which persons are not applying for food stamps because they are unable or unwilling to provide alien status verification.

2) The interviewer shall not simply review the information that appears on the application, but shall explore and resolve with the household unclear and incomplete information.

3) Households shall be advised of their rights and responsibilities during the interview, including the appropriate applications processing standard (see Sections 121.2 and 121.7) and the household's responsibility to report changes.

4) The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy shall be protected during the interview. Facilities shall be adequate to preserve the privacy and confidentiality of the interview.

c) Waiver of Office Interviews

1) The office interview shall be waived if requested by any household which is unable to appoint an authorized representative and which has no household members able to come to the food stamp office because they are qualifying members as defined in Section 121.61.

2) The office interview shall also be waived on a case-by-case basis for any household which is unable to appoint an authorized representative and which has no household members able to come to the food stamp office because of transportation difficulties or similar hardships which the Department determines warrants a waiver of the office interview. These

hardship conditions include, but are not limited to:

A) illness;

B) care of household member;

C) hardships due to residency in a rural area;

D) prolonged severe weather;

E) work or training hours which prevent the household from participating in an in-office interview.

3) The Department shall determine if the transportation difficulty or hardship reported by a household warrants a waiver of the office interview and shall document in the case file why a request for a waiver was granted or denied.

4) The Department has the option of conducting a telephone interview or a home visit for those households for whom the office interview is waived. Home visits shall be used only if the time of the visit is scheduled in advance with the household. However, a home visit interview for redetermination of eligibility for financial assistance/recertification does not have to be scheduled with the household in advance.

5) Waiver of the face-to-face interview does not exempt the household from the verification requirements, although special procedures may be used to permit the household to provide verification and thus obtain its benefits in a timely manner, such as substituting a collateral contact in cases where documentary verification would normally be provided.

6) Waiver of the face-to-face interview shall not affect the length of the household's certification period.

d) The Department shall schedule all interviews as promptly as possible to ensure the eligible households receive an opportunity to participate within 30 days after the application is filed. If a household fails to appear for the scheduled interview, the Department will issue a Notice of Missed Interview that will inform the household that the household missed its scheduled interview and that the

household is responsible for requesting another interview.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section 121.120 Redetermination of Eligibility

a) Redetermination involves the completion of an application, an interview, a review of eligibility and cooperation in the verification of eligibility. For earned income and non-assistance food stamp only households, see Section 121.125. The local office shall provide the household with an opportunity to participate in its normal issuance cycle.

b) In order to receive uninterrupted benefits, the household must:

1) file a timely application;

A) households certified for more than two months must file an application by the 15th calendar day of the last month of the certification period.

B) households certified for one or two months must file an application within 17 calendar days from the date of Notice of Eligibility/Expiration of Certification.

2) appear for the interview that is scheduled after the application is timely filed; and

3) provide all requested verifications within ten calendar days after the date the verification was requested.

c) The household is responsible for requesting another interview if it fails to appear for the interview that was scheduled after the application was filed.

d) The redetermination application of a food stamp unit who fails to appear for a scheduled interview or provide requested verifications within ten calendar days is denied.

1) If a food stamp unit cooperates before the end of the current approval period, the application is reopened and a full month's benefit is given for the first month of the new period.

2) If the food stamp unit cooperates after the end of the current approval period but within 30 days after the end of the period, the application is reopened and benefits are prorated from the date of cooperation.

e) Amount of food stamp benefits

1) Except as provided in subsection (d)(2) of this Section, households that file the application after the last day of the previous certification period, shall have benefits prorated from the date that the application was filed. Households that are certified for one or two months will not have benefits prorated if the application is filed within 17 calendar days of the date of Notice of Eligibility/Expiration of Certification.

2) Migrant and seasonal farmworker households shall receive a full allotment for the month of application if the household participated in the Food Stamp Program within 30 days prior to the date of application.

f) If a redetermination application is pending and uninterrupted benefits cannot be provided due to the ten day verification standard, then the local office must provide benefits within five working days after the date the household provides the verification.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 121.125 Redetermination of Earned Income Households

a) Non-assistance food stamp only households and food~~Food~~ stamp households with a member who has earned income (see Section 121.40(b)), except for those households defined in subsection (b) of this Section, are redetermined every six months. The six-month redeterminations alternate between a face-to-face interview and a mail-in redetermination form. If an incomplete mail-in redetermination form is received, the Department will send the client a notice advising of the incomplete form and that the client has 10 days to complete the form. If a household chooses to complete its redetermination using the automated phone interview system, a unique confirmation number will verify that the phone

interview application was completed and received by the Department.

b) The following households are not included~~earned income households~~:

1) migrant households in the migrant job stream;

2) persons who receive income from sheltered workshops;~~ and~~

3) households with persons who receive Aid to the Aged, Blind or Disabled (see 89 Ill. Adm. Code 113), unless another household member has earned income;~~.~~

4) households approved for one or two months due to a likelihood of frequent or major changes in unearned income or circumstances;

5) households entitled to expedited service with postponed verifications (see Section 121.7);

6) households receiving Express Stamps (see Section 121.8); and

7) households with a member subject to the food stamp work requirement (this only applies in areas where the person has to meet work requirement; see Section 121.18).

c) Benefits are~~Earned income households have their benefits~~ calculated prospectively for six months. Income averaging is used to determine the amount of income to budget for the next six months, based on the income received during the month~~fiscal months~~ before the last month of the approval period.

d) During the six months between redeterminations, the household is only required to report when gross income exceeds the household's gross income limit (130% of the Federal Poverty Level).

e) For any reported change that results in an increase in benefits, benefits are increased for the fiscal month following the fiscal month of report. If benefits decrease as a result of the reported change, benefits are decreased for the first month that can be affected following the end of the 10-day timely notice period.

f) For other redetermination rules, see Section 121.120.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 31 Ill. Reg. _____, effective _____)

AUDITOR GENERAL

NOTICE OF PROPOSED RULES

1) Heading of the Part: Inspector General Complaint Policies and Procedures

2) Code Citation: 2 Ill. Adm. Code 605

3)

Section Numbers:	Proposed Action:
605.5	New Section
605.10	New Section
605.15	New Section
605.20	New Section
605.25	New Section
605.30	New Section
605.40	New Section
605.50	New Section
605.60	New Section
605.70	New Section

4) Statutory Authority: Section 30-5(b) of the State Officials and Employees Ethics Act [5 ILCS 430/30-5(b)]

5) A Complete Description of the Subjects and Issues Involved: These rules govern the investigations of the Office of the Auditor General Inspector General and set forth procedures for opening, closing and conducting investigations, confidentiality, and cooperation by employees.

6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

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

8) Does this rulemaking contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking does not affect create or expand a State mandate under the State Mandates Act.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Becky Patton, Legal Counsel

AUDITOR GENERAL

NOTICE OF PROPOSED RULES

Office of the Auditor General
740 E. Ash St.
Springfield, IL 62703

217/782-6046
888/261-2887 (TTY)

All written comments filed within 45 days after the date of publication of this Notice will be considered.

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of Professional skills necessary for compliance: None

13) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Office failed to publish this proposal in a regulatory agenda due to an inadvertent omission.

The text of the Proposed Rules is identical to the text of the Emergency Rules on page 13031 of this issue of the *Illinois Register*.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Section Number: 100.7110 — Proposed Action: Amendment

4) Statutory Authority: 35 ILCS 5/702 and 5/1401

5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates the provisions for Form IL-W-4, Employee's Illinois Withholding Allowance Certificate, to allow electronic versions of the form meeting standards set by the IRS for the federal Form W-4 and to reflect revisions to the IRS' procedures for review of suspect filings.

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? Yes

Section Numbers:	Proposed Action:	Illinois Register Citation:
100.2470	Amendment	31 Ill. Reg. 12296; August 24, 2007
100.2185	Amendment	31 Ill. Reg. 12449; August 31, 2007

11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Paul Caselton
Deputy General Counsel - Income Tax
Illinois Department of Revenue

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/524-3951

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: All employers will receive up-to-date guidance on the Department's procedures for review of Forms IL-W-4 and will be expressly allowed to use electronic versions of the form.

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 2007

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

DEPARTMENT OF REVENUE

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section
100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURRING PRIOR TO DECEMBER 31, 1986

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Section
100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) - Scope
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Definitions
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) - Current Net Operating Losses: Offsets Between Members
100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) - Carrybacks and Carryforwards
100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income
100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES OCCURRING ON OR AFTER DECEMBER 31, 1986

Section
100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary

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Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section
100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
100.2430 Addition and Subtraction Modifications for Transactions with 80-20 Companies
100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section
100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section
100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section
100.3000 Terms Used in Article 3 (IITA Section 301)
100.3010 Business and Nonbusiness Income (IITA Section 301)
100.3015 Business Income Election (IITA Section 1501)
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SUBPART J: COMPENSATION

Section
100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3200 Taxability in Other State (IITA Section 303)
100.3210 Commercial Domicile (IITA Section 303)
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
100.3310 Business Income of Persons Other Than Residents (IITA Section 304) - In General
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) - Apportionment (Repealed)
100.3330 Business Income of Persons Other Than Residents (IITA Section 304) - Allocation
100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
100.3370 Sales Factor (IITA Section 304)
100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400 Apportionment of Business Income of Financial Organizations (IITA Section 304(c))
100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section

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100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section
100.5000 Time for Filing Returns: Individuals (IITA Section 505)
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040 Innocent Spouses
100.5050 Frivolous Returns
100.5060 Reportable Transactions

SUBPART O: COMPOSITE RETURNS

Section
100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credits for Resident Individuals
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section
100.5200 Filing of Combined Returns
100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205 Election to File a Combined Return
100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
100.5215 Filing of Separate Unitary Returns
100.5220 Designated Agent for the Members
100.5230 Combined Estimated Tax Payments
100.5240 Claims for Credit of Overpayments
100.5250 Liability for Combined Tax, Penalty and Interest

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100.5260 Combined Amended Returns
100.5265 Common Taxable Year
100.5270 Computation of Combined Net Income and Tax
100.5280 Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section
100.7000 Requirement of Withholding (IITA Section 701)
100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
100.7040 Employer Registration (IITA Section 701)
100.7050 Computation of Amount Withheld (IITA Section 702)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090 Reciprocal Agreement (IITA Section 701)
100.7095 Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section
100.7100 Withholding Exemption (IITA Section 702)
100.7110 Withholding Exemption Certificate (IITA Section 702)
100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns of Income Tax Withheld from Wages (IITA Section 704)
100.7310 Quarterly Returns Filed on Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns (IITA Section 704)
100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)

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100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section
100.9000 General Income Tax Procedures (IITA Section 901)
100.9010 Collection Authority (IITA Section 901)
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SUBPART V: NOTICE AND DEMAND

Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

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100.9300 Deficiencies and Overpayments (IITA Section 904)
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

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Section
100.9400 Credits and Refunds (IITA Section 909)
100.9410 Limitations on Claims for Refund (IITA Section 911)
100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section
100.9500 Access to Books and Records (IITA Section 913)

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100.9505 Access to Books and Records - 60-Day Letters (IITA Section 913) (Repealed)
100.9510 Taxpayer Representation and Practice Requirements
100.9520 Conduct of Investigations and Hearings (IITA Section 914)
100.9530 Books and Records

SUBPART AA: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section
100.9700 Unitary Business Group Defined (IITA Section 1501)
100.9710 Financial Organizations (IITA Section 1501)
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100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

SUBPART DD: MISCELLANEOUS

Section
100.9900 Tax Shelter Voluntary Compliance Program

100.APPENDIX A Business Income Of Persons Other Than Residents
100.TABLE A Example of Unitary Business Apportionment
100.TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at

5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687,

effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. _____, effective _____.

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section 100.7110 Withholding Exemption Certificate (IITA Section 702)

a) In general. On or before the date on which an individual commences employment with an employer, the individual shall furnish the employer with a signed Illinois withholding exemption certificate relating to the number of withholding exemptions ~~which~~ he or she claims, which in no event shall exceed the number to which he or she is entitled. If an individual has claimed total exemption from federal income tax withholding for the current taxable year under 26 CFR 31.3402(n)-1, i.e., if the individual has furnished his or her employer with a federal exemption certificate stating that he or she incurred no federal income tax liability for the~~his~~ preceding taxable year, and the individual~~he~~ anticipates that he or she will not incur a federal income tax liability for the~~his~~ current taxable year, then the individual~~he~~ may, solely on that basis, claim total exemption from Illinois income tax withholding for the current taxable year on a signed Illinois withholding exemption certificate. If an employee attempts to claim total exemption from withholding on the~~his~~ Illinois certificate but does not simultaneously file or have on file with his or her employer a federal certificate

claiming total exemption from federal withholding, or if the employee subsequently files a federal certificate that does not claim total exemption, then the employer shall disregard the Illinois certificate as invalid and shall withhold Illinois income tax at the full rate from the employee's total compensation until a valid certificate is furnished by the employee. The employer is required to request a withholding exemption certificate from each employee, but if the employee fails to furnish the~~such~~ certificate, the~~such~~ employee shall be considered as claiming no withholding exemptions. If the employee is a resident of a state with which Illinois has entered into a reciprocal agreement, he or she may file an IL-W-5, Employee's Statement of Non-Residence in Illinois, to claim an exemption from Illinois withholding. See 86 Ill. Adm. Code 100.7120.

b) Form and content. Form IL-W-4, Employee's Illinois Withholding Exemption Certificate, is the form prescribed for the certificate required to be filed under this Section~~section~~. A withholding exemption certificate on Form IL-W-4 shall be prepared in accordance with the instructions applicable to that form~~thereto~~, and shall set forth fully and clearly the data required in the form~~therein called for~~. An alteration of or unauthorized addition to a withholding exemption certificate shall cause the~~such~~ certificate to be invalid. An alteration of a withholding exemption certificate is any deletion of the language by which the employee certifies or affirms the correctness of the completed certificate, or any material defacing the~~of such~~ certificate. An unauthorized addition to a withholding exemption certificate is any writing on the~~such~~ certificate other than the entries requested (e.g., name, address, and number of exemptions claimed). Form IL-W-4 will be supplied to employers upon request to the Department. In lieu of the prescribed form of certificate, employers may prepare and use a written form the provisions of which are identical to those of the prescribed form. Alternatively, an employer may use any software application that will allow employees to prepare the IL-W-4 electronically, provided that any such electronic system meets the requirements of 26 CFR 31.3402(f)(5)-1(c) and requires the production and retention of the same information required on the written Form IL-W-4.

c) Change in status that~~which~~ affects the current calendar year.

1) Decrease in the number of exemptions.

A) Employee notification. If, on any day during the calendar year, the number of withholding exemptions to which an employee is entitled is less than the number of withholding exemptions claimed

~~by him~~ on a withholding certificate then in effect, the employee must, within 10 days after the change occurs, furnish the employer with a new Illinois withholding exemption certificate relating to the number of withholding exemptions ~~which~~ the employee then claims, which must in no event exceed the number to which the employee~~he~~ is entitled on the~~such~~ day the form is submitted.

B) Internal Revenue Service notification. If an employer receives a notice from the Internal Revenue Service relative to a particular employee's withholding exemption certificate that~~, which notice~~ necessitates the employer disregarding an employee's claim to total exemption or to the full amount of exemptions shown on the Form W-4~~treating such certificate as defective~~ under 26 CFR 31.3402(f)(2)-1(g) or 31.3402(f)(2)-1T(g)~~(5)~~, then the employer shall withhold Illinois income tax from the employee as follows:

i) if the employee's Form IL-W-4 claims total exemption from Illinois withholding, on the basis of the maximum number of exemptions specified by the Internal Revenue Service in the notice;~~,~~ or

ii) if the employee's Form IL-W-4 claims a certain number of exemptions, on the basis of the number of exemptions ~~thus~~ claimed by the employee or on the basis of the maximum number of exemptions specified by the Internal Revenue Service in the notice, whichever is less.

2) Increase in the number of exemptions. If, on any day during the calendar year, the number of withholding exemptions to which an employee is entitled is more than the number of withholding exemptions claimed ~~by him~~ on the withholding exemption certificate then in effect, the employee may furnish the employer with a new Illinois withholding exemption certificate on which the employee must in no event claim more than the number of withholding exemptions to which he or she is entitled on that~~such~~ day.

3) Change in circumstances relative to a total exemption from Illinois income tax withholding.

A) Change entitling the employee to a total exemption. If, on any day during the calendar year, the employee ~~under 26 CFR 31.3402(f)(2)-1(b)(3)~~ furnishes his or her employer with a new federal withholding exemption certificate for the~~his~~ current taxable year claiming total exemption from federal income tax withholding under 26 CFR 31.3402(n)-1, then the employee may also furnish the~~his~~ employer with a new Illinois withholding exemption certificate claiming total exemption from Illinois income tax withholding for the~~his~~ current taxable year.

B) Change depriving the employee of a total exemption. If, on any day during the calendar year, the employee~~, under 26 CFR 31.3402(f)(2)-1(b)(4)~~ furnishes his or her employer with a new federal withholding exemption certificate withdrawing his or her claim of total exemption for federal income tax withholding for the~~his~~ current taxable year under 26 CFR 31.3402(n)-1, then the employee must simultaneously furnish the~~his~~ employer with a new Illinois withholding exemption certificate specifying the number of withholding exemptions ~~which~~ he or she claims.

d) Change in status that~~which~~ affects next calendar year.

1) Increase or decrease in the number of exemptions. If, on any day during the calendar year, the number of withholding exemptions to which the employee will be, or may reasonably be expected to be, entitled to for the~~his~~ taxable year that~~which~~ begins in, or with, the next calendar year is different from the number to which the employee is entitled on that~~such~~ day, the following ~~rules~~ shall apply:

A) If the~~such~~ number is less than the number of withholding exemptions claimed by the employee on an Illinois withholding exemption certificate in effect on that~~such~~ day, the employee must, on or before December 1 of the year in which the change occurs, unless the~~such~~ change occurs in December, furnish his or her employer with a new withholding exemption certificate reflecting the decrease. If the change occurs in December, the new certificate must be furnished within 10 days after the change occurs.

B) If the~~such~~ number is greater than the number of withholding exemptions claimed by the employee on an Illinois withholding exemption certificate in effect on that~~such~~ day, the employee may, on or before December 1 of the year in which the change occurs, unless the~~such~~ change occurs in December, furnish his or her employer with a new withholding exemption certificate reflecting the increase. If the change occurs in December, the certificate may be furnished on or after the date on which the change occurs.

2) Change in circumstances relative to the total exemption. If an employee, having in effect a federal withholding exemption certificate claiming total exemption from federal income withholding, furnishes his or her employer with a new federal withholding exemption certificate ~~under 26 CFR 31.3402(f)(2)1(b)(4)~~ stating a specific number of withholding exemptions for the~~his~~ taxable year beginning with or including the following January 1, then the employee must also have on file with the~~his~~ employer, not later than the date on which the new federal withholding exemption certificate was submitted, an Illinois withholding exemption certificate stating a specific number of Illinois withholding exemptions not to exceed the total number to which the employee~~he~~ is entitled under IITA Section 702 and Section 100.7100 of this Part~~86 Ill. Adm. Code 100.7100~~.

e) Annual determination. On or before December 1 of each year, those employees whose Illinois withholding exemption will change in the succeeding year should file a new Illinois withholding exemption certificate (IL-W-4) reflecting the change.

f) Effective date of exemption certificate. An Illinois withholding exemption certificate furnished an employer, when~~where~~ no previous certificate is in effect for the~~an~~ employee, shall take effect as of the beginning of the first payroll period ending, or the first payment of compensation without regard to a payroll period, on or after the date on which the~~such~~ certificate is so furnished. In any case in which~~where~~ an Illinois withholding exemption certificate is in effect for an employee, the furnishing of a new withholding exemption certificate shall take effect with respect to the first payment of compensation made on or after the first status determination date (January 1, May 1, July 1 and October 1 of each year) that~~which~~ occurs at least 30 days after the date on which the new certificate is furnished. However, at the election of the employer, except for Illinois withholding exemption certificates provided under subsection (d) of this

Section~~of 86 Ill. Adm. Code 100.7110~~, the~~such~~ certificate may be effective with respect to any earlier payment of compensation made after the~~such~~ certificate is furnished.

g) Period during which withholding exemption certificate remains in effect.

1) Certificates claiming total exemption. An Illinois withholding exemption certificate that~~which~~ claims total exemption from Illinois income tax withholding remains in effect for the same period as the federal withholding exemption certificate on which it is based. This period is defined in 26 CFR 31.3402(f)(4)-1(c).

2) Certificates claiming a specific number of withholding exemptions. An Illinois withholding exemption certificate that~~which~~ claims a specific number of withholding exemptions and that~~which~~ is in effect pursuant to this Section~~these regulations~~ shall continue in effect until another withholding exemption certificate takes effect.

h) Employer referral of certain Illinois withholding exemption certificates to the Department.

1) When required.

A) Any Illinois withholding exemption certificate meeting all of the following criteria must be referred by the employer to whom it is submitted to the Department of Revenue not later than the day on which the next quarterly return of withholding is due. The criteria for referral are:

i) that the certificate claims more withholding exemptions than the simultaneously effective federal withholding certificate;~~,~~

ii) that the certificate claims in excess of ~~fourteen (~~14~~)~~ exemptions;~~,~~ and

iii) that the employer has no obligation to submit a simultaneously effective federal certificate to the Internal Revenue Service under 26 CFR 31.3402(f)(2)-1(g).

B) In addition to the foregoing, an Illinois withholding certificate must be referred by the employer to the Department of Revenue as directed in a written notice to the employer from the Department or as directed in published guidance. A notice to the employer may relate either to one or more named employees; to one or more reasonably segregable units of the employer; or to withholding exemptions under certain specified criteria. Employers may also be required to submit copies of withholding exemption certificates under certain specified criteria when directed to do so by the Department in published guidance. "Published guidance," in this case, includes but is not limited to Department of Revenue bulletins, circulars, publications and form instructions.

C) Referral under this subsection (h) shall be accomplished by mailing or delivering a ~~photostatic~~ copy of the certificate~~certificate(s)~~ to be referred to:

Illinois Department of Revenue
Taxpayer Correspondence Section
Post Office Box 4565
Springfield, Illinois 62708

Alternatively, upon notice from the Department, the employer must make withholding exemption certificates received from one or more named employees, from one or more reasonably segregable units of the employer, or from employees who have furnished withholding exemption certificates under certain specified criteria available for inspection by a Department employee (e.g., a compliance check).

2) Results of referral.

A) The withholding exemption certificate remains effective even though it has been referred to the Department under this subsection (h), unless and until the Department notifies the employer in writing:

i) that the certificate claims exemptions in excess of the

number to which the employee is entitled, in which case the notice shall specify either the number of exemptions to which the employee is entitled if that number can be determined or, if that number cannot be determined, that the employee is not entitled to any exemptions;~~,~~ or

ii) that the Department has attempted to verify the certificate by correspondence with the employee but has been unsuccessful, in which case the employer shall withhold Illinois income tax from the employee as though no certificate were on file, i.e., as though the employee claimed no exemptions.

B) As part of this notice, the Department may advise the employer of the reasons why it has determined that the certificate should not be effective.

3) Employer's action in response to the Department's notice rendering a certificate ineffective. The employer shall promptly furnish the employee who files the certificate, if still in his or her employ, with a copy of the written notice received from the Department under subsection (h)~~paragraph~~(2) ~~above~~ relative to the certificate. The employer shall withhold amounts from the employee on the basis of the maximum number of exemptions specified in the notice. If the employee files a new certificate after the employer has received the notice relative to an earlier referred certificate, the employer shall withhold on the basis of that new certificate only if it does not claim a number of exemptions in excess of the maximum number specified in the notice. The~~: the~~ employer shall not submit such a new certificate to the Department under this subsection (h) and the employer shall continue to withhold amounts from the employee on the basis of the maximum number of exemptions specified in the notice. However, the employee may detail, in a written statement attached to the~~such~~ new certificate, any circumstances of the employee that~~which~~ have changed since the date of the Department's notice and that~~which~~ justify or support the number of exemptions claimed by the employee on the new certificate. The employee may then submit that new certificate and written statement

either to the Department at the address indicated in subsection (h)~~paragraph~~(1)(C), or to the employer who must then promptly submit a copy of the new certificate and the attached written statement to the Department at the address indicated in subsection (h)~~paragraph~~(1)(C). Even though the employer~~he~~ has submitted the new certificate~~it~~ to the Department, the employer shall continue to disregard the new certificate and shall continue to withhold amounts from the employee on the basis of the maximum number of exemptions specified in the notice unless and until the Department, by a second written notice, advises the employer to withhold on the basis of the new certificate.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED RULES

1) Heading of the Part: Uniform Partnership Act (1997)

2) Code Citation: 14 Ill. Adm. Code 166

3)

Section Numbers:	Proposed Action:
166.10	New
166.15	New
166.20	New
166.25	New
166.30	New
166.35	New
166.40	New
166.45	New
166.50	New
166.55	New
166.60	New
166.65	New
166.70	New
166.75	New
166.80	New

4) Statutory Authority: Implemented and authorized by Sections 5-10 and 5-15 of the Illinois Administrative Procedure Act (5 ILCS 100/5-10 and 5-15)

5) A Complete Description of the Subjects and Issues Involved: Sections 166.10-166.80 are added to provide a complete set of Rules for the Uniform Partnership Act (1997). For the most part, they are taken from Part 165 regarding the Uniform Partnership Act at 805 ILCS 205, which is scheduled for repeal effective January 1, 2008. The Sections establish rules in connection with prohibited terms in the title and improper names, definitions, applicability, the filing location, business hours, filing requirements, additional requirements, fees, the sale of information, refunds, service of process, interrogatories and right to counsel.

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

SECRETARY OF STATE

NOTICE OF PROPOSED RULES

9) Does this rulemaking contain incorporation by reference? No

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

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

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

Chuck Moles
Department of Business Services
Room 351, Howlett Building
Springfield, Illinois 62756

217/782-4875

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Limited Liability Partnerships

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which these rulemakings were summarized: December 2006

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

SECRETARY OF STATE

NOTICE OF PROPOSED RULES

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE

PART 166
UNIFORM PARTNERSHIP ACT (1997)

Section

166.10 Prohibited Terms in Title
166.15 Improper Names
166.20 Definitions
166.25 Applicability
166.30 Filing Location
166.35 Business Hours
166.40 Filing Requirements
166.45 Additional Requirements for Forms
166.50 Renewal Reports
166.55 Payment of Fees
166.60 Sale of Information
166.65 Refunds
166.70 Service of Process
166.75 Interrogatories
166.80 Right to Counsel

AUTHORITY: Implementing and authorized by the Uniform Partnership Act [805 ILCS 206].

SOURCE: Adopted at 31 Ill. Reg. _____, effective _____.

Section 166.10 Prohibited Terms in Title

The name of a limited liability partnership shall not contain the terms "Corporation", "Corp.", "Incorporated", "Inc.", "Company", or "Co."

Section 166.15 Improper Names

The name of a limited liability partnership shall not contain any word or words that create a connotation that is offensive to good taste.

Section 166.20 Definitions

In addition to the definitions contained in Section 101 of the Uniform Partnership Act [805 ILCS 206/101], the following definitions shall apply:

"Abstracts of Record" shall consist of a hard copy printout of the information shown on the computer records of the Department of Business Services of the Office of the Secretary of State.

"Department" shall mean the Department of Business Services of the Office of the Secretary of State.

"Director" shall mean the Director of the Department of Business Services.

"Interrogatories" shall mean a written request for information to ascertain whether a limited liability partnership has complied with the provisions of the UPA.

"RLLP" shall mean a Registered Limited Liability Partnership.

"Secretary" shall mean the Secretary of State of Illinois.

"UPA" shall mean the Uniform Partnership Act (1997) [805 ILCS 206].

"UPA Section" shall mean the unit of the Department that administers the provisions of the UPA.

Section 166.25 Applicability

The provisions of this Part shall be applicable to all registered limited liability partnerships that are, will be or may become subject to the provisions of the UPA.

Section 166.30 Filing Location

a) All documents required to be filed with the Secretary of State pursuant to the UPA shall be filed with the Department.

b) Documents submitted for filing in Springfield, the Department's headquarters, shall be filed at the following address:

Department of Business Services

Uniform Partnership Act Section
Room 357, Howlett Building
Springfield, Illinois 62756

c) Documents submitted by mail for filing should be sent to the Department's Springfield office.

Section 166.35 Business Hours

The Department of Business Services business hours are 8:00 a.m. to 4:30 p.m. in Springfield, Monday through Friday, except holidays.

Section 166.40 Filing Requirements

a) Corporations serving as partners in limited liability partnerships or foreign limited liability partnerships must comply with the following:

1) a domestic corporation shall be in good standing in Illinois and the statement of qualification shall be executed by a corporate officer.

2) a foreign corporation qualified in Illinois shall be in good standing in Illinois and the statement of qualification shall be executed by a corporate officer.

3) a foreign corporation not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by its state or jurisdiction with the statement of qualification, which shall be executed by a corporate officer.

b) Limited liability companies serving as partners in limited liability partnerships or foreign limited liability partnerships must comply with the following:

1) a domestic limited liability company shall be in good standing in Illinois and the statement of qualification shall be executed by a company member or manager.

2) a foreign limited liability company qualified in Illinois shall be in good standing in Illinois and the statement of qualification shall be executed by a member or manager.

3) a foreign limited liability company not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by its state or jurisdiction with the statement of qualification, which shall be executed by a company member or manager.

c) Limited partnerships serving as partners in limited liability partnerships or foreign limited liability partnerships must comply with the following:

1) a domestic limited partnership must be in good standing in Illinois and the statement of qualification shall be executed by a general partner.

2) a foreign limited partnership qualified in Illinois shall be in good standing in Illinois and the statement of qualification shall be executed by a general partner.

3) a foreign limited partnership not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by its state or jurisdiction with the statement of qualification, which shall be executed by a general partner.

d) General partnerships serving as partners in limited liability partnerships must comply with the following:

1) both domestic and foreign general partnerships must identify their state of formation, the county of their formation, and their office of records address.

2) all partners are to be identified by name and those partners that are partnerships, corporations, limited liability companies, or other non-personal entities shall provide documentation of their existence in good standing in the states of formation or organization.

e) Trusts serving as partners in limited liability partnerships must provide to the Secretary of State evidence of existence by a statement of trustee, dated and executed.

f) Estates serving as partners in limited liability partnerships must provide the Secretary of State evidence of existence by a copy of the relevant court order, dated and executed.

g) All entities, other than natural persons, serving as partners in limited liability partnerships must provide evidence of existence upon request of the Secretary of State, and must comply with the following:

1) any partner using an Illinois address must be qualified in Illinois.

2) any partner with a foreign address and not qualified in Illinois shall provide a certificate of good standing issued by the state of formation within the preceding 30 days.

h) When filing its statement of foreign qualification pursuant to Section 1102 of the UPA, any foreign limited liability partnership shall submit an original certified copy of the domestic registration as well as a certificate of existence issued by its state or jurisdiction of formation. The Department shall reject any proposed filing that does not contain both the original certified copy of the domestic registration and a certificate of existence or good standing by the state or jurisdiction of formation.

i) When a limited partnership is a partner in a newly formed limited liability partnership, or when the limited partnership is substituted by amendment as a partner, then the name of the limited partnership shall be written, typed or printed in the space for the partner on the certificate of authority or amendments to the certificate.

Section 166.45 Additional Requirements for Forms

a) All documents required by this Act to be filed in the Office of the Secretary of State shall be made on the most recent version of forms prescribed and furnished by the Secretary of State.

b) All documents filed with the Department shall contain the federal employer identification number of the limited liability partnership with respect to which the document was filed.

c) All documents and attachments submitted by a limited liability partnership shall be typewritten on 8½ x 11" white paper.

Section 166.50 Renewal Reports

a) The Secretary of State shall renew the registration of any limited liability partnership upon payment of the required fee, providing the submission of the renewal statement required by Section 1003 of the UPA is postmarked no later than the expiration date.

b) A renewal statement must be filed pursuant to Section 1003 of the UPA. Timely submitted renewals that require revisions or changes shall be granted a 30 day extension.

Section 166.55 Payment of Fees

All payments of fees with respect to the filing of statements of qualification (domestic) and statements of foreign qualification shall be by money order, certified check, cashier's check, or a check drawn on the account of an Illinois licensed attorney or certified public accountant, made payable to the "Secretary of State", or by a credit card, a debit card or an electronic funds transfer. All other payments may be made by entity check, payable to the "Secretary or State". Any check that is returned by the bank to the Secretary of State's Office for any reason will immediately void the transaction for which it was intended and the Secretary of State shall treat the filing event as never occurring.

Section 166.60 Sale of Information

a) Information concerning any limited liability partnership shall be available to the public from the Department:

1) upon written request and payment of the required fee pursuant to Section 108 of the UPA.

2) by telephone request with advance payment using a credit or debit card approved by the Secretary of State's Department of Accounting Revenue (e.g., Visa, MasterCard).

3) in person and with payment of the required fee at the Department's address set forth in Section 166.30.

b) Information in the form of an abstract of record concerning the limited liability partnerships on file with the Department shall be printed from the computer file of the Department and shall consist of the limited liability partnership name, its date of qualification, its registered agent, the address of the office at which the records are maintained, the foreign jurisdiction where formed (if applicable), the date of filing with the Department, and the file number assigned by the Department. The fee for each abstract of record shall be $25.

c) Copies of all documents pertaining to limited liability partnerships on file with the Department are available:

1) upon written request and payment of the required fee.

2) by telephone request with advance payment using a credit card, a debit card or an electronic funds transfer.

3) in person and with payment of the required fee at the Department's address set forth in Section 166.30.

d) Computer connections by non-Department users:

1) Computer terminal connections to the Secretary's computer may be provided to other State agencies. This service may be made available at no charge so long as the requesting agency incurs all costs and so long as the service does not substantially increase costs or network traffic on the Secretary's computer.

2) Computer terminal connections may be allowed to commercial users provided that all costs are borne by the commercial user. The allowance of computer terminal connections shall be contingent upon the best interests of the Office of the Secretary of State, cost-effectiveness of providing the information through computer terminal connections as opposed to other methods, and other factors that may impede the operations of the Office of the Secretary of State. This service will be suspended at any time should the connection interfere with the Secretary's internal work schedules and processing.

3) Fees for information supplied by means of computer connections between the Secretary of State's computers and those of any other agency, corporation, or person may be paid on a monthly basis for all information delivered during that month, as determined by the Secretary and the agency or person to be the economically simplest way of billing. The proper fee shall be determined by negotiation between the agency or commercial user and the Director based upon telephone line charges, rental or purchase fees for terminals, and any other appropriate factors, such as the statutory fees set forth at 805 ILCS 206/108 for certificates of information, and the requirements of this Part.

4) No users may print any list or abstract from the computer connection. Lists of UPA information including the names and information for all limited partnerships may only be purchased pursuant to the provisions of this Part. Computer connections are to be used only to look up information. No changes on the Departments UPA files may be made by any computer connection user.

f) Terms and conditions for computer maintained UPA information:

1) The information supplied by the Department to other agencies, commercial users, or other persons shall be in the abstract format only, as specified in subsection (b) of this Section.

2) The fee for the entire file of current and expired limited liability partnerships shall be $1,500. The monthly update shall cost $400 per update. The update is available by electronic transfer only. If the file is purchased on computer disc or tape, the purchaser shall supply the Department with computer disc, discs, tape or tapes, compatible with the Secretary's computer equipment, on to which discs or tapes the information shall be transferred.

3) All purchase requests shall be submitted in writing to the Director. Payment shall be made to the Department before delivery of the information to the purchaser. No refunds will be made after the request is approved by the Director. Payment shall be made by check or money order payable to the "Secretary of State", or by approved credit or debit card.

4) All commercial or other type purchasers shall sign a written agreement setting forth the terms and conditions required by Illinois law, and as may be deemed appropriate after negotiation between the Department and the purchaser.

5) The commercial purchaser shall not resell to any other purchaser the information obtained from the Department in the same form or format in which it is obtained from the Department. Resale of information in the same form or format shall result in cancellation of access to information by the Department. The commercial purchaser may sell the information to the subscribers of its computer or business information services only as information specific to an individual limited partnership, as needed by the subscriber.

Section 166.65 Refunds

No refunds of any fees shall be paid by the Department.

Section 166.70 Service of Process

a) For the purposes of the UPA, the procedures set forth in this Section shall apply.

b) Any process, notice or demand to be served under this Part shall be made upon the Secretary, the Director, or any employee of the Department designated by the Director to accept such service for him or her, in the following manner:

1) service shall comply with the provisions of Part 2 of the Civil Practice Law [735 ILCS 5/Art. II, Part 2], the Federal Rules of Civil Procedure (28 USCA), or any administrative rules of service, as may be appropriate.

2) an affidavit of compliance must be appended to the process, notice or demand to be served, containing the information described in subsection (c), shall be signed by the person instituting the action, suit or proceeding or by an attorney of record, and the signature of the affiant, without more, shall constitute the affirmation or acknowledgement, under penalties of perjury, that the affidavit is the act or deed of the affiant and that the facts stated in the affidavit are true.

c) The affidavit of compliance shall state:

1) the title of the court or administrative agency.

2) the title of the case, showing the names of the first named plaintiff and the first named defendant.

3) the number of the case.

4) the title of the instrument.

5) the title of the limited liability partnership to be served.

6) the basis for service on the Secretary.

7) the address to which the instrument is to be sent (by registered or certified mail) by the affiant.

8) the name, address and telephone number of the attorney of record for the plaintiff or other affiant.

d) Service of any process, notice or demand made under this Part shall be made with the Department at the address set forth in Section 166.30.

e) The Department shall maintain original file copies, which shall be in paper form or an acceptable archival medium, and originals may be discarded upon verification of archival medium (microfilm or electronic imaging) and upon approval by the State Records Commission (see 5 ILCS 160/16).

f) The fee for the service provided by the Department under subsection (e) shall be $25.

Section 166.75 Interrogatories

a) The Secretary of State may propound to any limited liability partnership subject to the provisions of the UPA, and to any partner, such interrogatories as may be reasonably necessary and proper to enable the Secretary to ascertain whether the limited liability partnership has complied with all the applicable provisions of the UPA and this Part. The interrogatories shall be answered within 30 days after mailing, or within such additional time as shall be fixed by the Secretary, and the

answers shall be full and complete, and shall be made in writing and under oath. If the interrogatories are directed to a person, they shall be answered by him or her; if directed to a limited liability partnership, they shall be answered by the partners. The Secretary need not file any document to which the interrogatories relate until the interrogatories are answered and not then if the answers disclose that the document is not in conformity with the UPA and this Part. The Secretary of State shall certify to the Attorney General, for such action as the Attorney General may deem appropriate, all interrogatories and answers that disclose a violation of the UPA or this Part.

b) Interrogatories propounded by the Secretary of State and the answers shall not be open to public inspection, nor shall the Secretary disclose any facts or information obtained, except insofar as official duty may require them to be made public or in the event the interrogatories or the answers are required for evidence in any criminal proceeding or in any other action by the State.

Section 166.80 Right to Counsel

a) Hearing procedures will be governed by 14 Ill. Adm. Code 150, Subpart A.

b) Any party may appear and be heard through an attorney at law licensed to practice in the State of Illinois.

1) Attorneys admitted to practice in states other than the State of Illinois may appear and be heard upon the attorney's verbal representation of written documentation as to the attorney's admittance, pursuant admittance, pursuant to an Order prohac vice, entered by a judge of the circuit court of the county in which the hearing is conducted, as provided in Supreme Court Rule 707.

2) A natural person may appear and be heard on his or her own behalf.

3) A corporation, limited liability company, association or partnership may appear and present evidence by any bonafide officer, employee or representative.

c) Only an attorney properly licensed shall represent anyone else in any hearing in any matter involving the exercise of legal skill or knowledge. The standards of conduct shall be the same as before the Courts of the State of Illinois.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Uniform Limited Partnership Act (2001)

2) Code Citation: 14 Ill. Adm. Code 171

3)

Section Numbers	Proposed Action
171.10	Amend
171.15	Amend
171.20	New
171.25	New
171.30	New
171.35	New
171.40	New
171.45	New
171.50	New
171.55	New
171.60	New
171.65	New
171.70	New
171.75	New
171.80	New

4) Statutory Authority: Implementing and authorized by Sections 108, 108.5, 109 and 902 of the Illinois Uniform Limited Partnership Act [805 ILCS 215/108, 108.5, 109 and 902].

5) A Complete Description of the Subjects and Issues Involved: Sections 171.10 and 171.15 are changed to correct the designation of a limited liability limited partnership from the misstated "limited liability partnership.

Sections 171.10-171.80 are added to provide a complete set of Rules for the Uniform Limited Partnership Act. For the most part, they are taken from Part 170 regarding the Revised Uniform Limited Partnership Act at 805 ILCS 215, which is scheduled for repeal effective January 1, 2008. The Sections establish rules in connection with assumed names, definitions, applicability, the filing location, business hours, filing requirements, additional requirements, fees, the sale of information, refunds, service of process, interrogatories and right to counsel.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

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

Chuck Moles
Department of Business Services
Room 351, Howlett Building
Springfield, Illinois 62756

217-782-4875

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Limited Partnerships and Limited Liability Limited Partnerships

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 rulemakings were summarized: December 2006

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE

PART 171
UNIFORM LIMITED PARTNERSHIP ACT (2001)

Section
171.10 Prohibited Terms in Title
171.15 Improper Names
171.20 Assumed Names
171.25 Definitions
171.30 Applicability
171.35 Filing Location
171.40 Business Hours
171.45 Filing Requirements
171.50 Additional Requirements for Forms
171.55 Payment of Fees
171.60 Sale of Information
171.65 Refunds
171.70 Service of Process
171.75 Interrogatories
171.80 Right to Counsel

AUTHORITY: Implementing and authorized by Sections 108, 108.5, 109 and 902 of the Illinois Uniform Limited Partnership Act [805 ILCS 215/108, 108.5, 109 and 902].

SOURCE: Adopted at 29 Ill. Reg. 19696, effective November 28, 2005; amended at 31 Ill. Reg. _____, effective _____.

Section 171.10 Prohibited Terms in Title

The name of a limited partnership or limited liability limited partnership or the assumed name of a limited partnership or limited liability limited partnership shall not contain the terms "Corporation", "Corp.", "Incorporated", "Inc.", "Company", or "Co."

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 171.15 Improper Names

The name of a limited partnership or limited liability limited partnership or the assumed name of a limited partnership or limited liability limited partnership shall not contain any word or words that create a connotation that is offensive to good taste. By way of example only, prohibited words and phrases include, but are not limited to, profanity, those that are likely to be considered slurs based on race, ethnicity, sexual orientation or gender, or those that otherwise defame a person or group of persons.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 171.20 Assumed Names

a) A limited partnership or limited liability limited partnership may adopt, change, renew or cancel an assumed name by filing an application with the Department and paying the fee stated at Section 1302(b)(5) of the ULPA. The application shall contain the name of the limited partnership or limited liability limited partnership, the file number, and the assumed name to be adopted, changed, renewed, or cancelled.

b) The application to adopt, change, or cancel an assumed name shall be on a separate form from the application to renew an assumed name.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.25 Definitions

In addition to the definitions contained in Section 102 of the Uniform Limited Partnership Act (2001) the following definitions shall apply:

"Abstracts of Limited Partnerships" shall consist of a hard copy print-out of the information shown on the computer records of the Department of Business Services of the Office of the Secretary of State.

"Department" shall mean the Department of Business Services of the Office of the Secretary of State.

"Director" shall mean the Director of the Department of Business Services.

"Interrogatories" shall mean a written request for information to ascertain whether a limited partnership or a limited liability limited partnership has complied with the provisions of the ULPA.

"Secretary" shall mean the Secretary of State of Illinois.

"ULPA" shall mean the Uniform Limited Partnership Act (2001) [805 ILCS 215].

"ULPA Section" shall mean the unit of the Department that administers the ULPA.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.30 Applicability

The provisions of this Part shall be applicable to all limited partnerships and limited liability limited partnerships that are or that will or may become subject to the provisions of the Uniform Limited Partnership Act (2001).

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.35 Filing Location

a) All documents required to be filed with the Secretary of State pursuant to the ULPA shall be filed with the Department.

b) Documents submitted for filing in Springfield, the Department's headquarters, shall be filed at the following address:

Department of Business Services
Limited Partnership Section
Room 357, Howlett Building
Springfield, Illinois 62756

c) Documents submitted by mail for filing should be sent to the Department's Springfield office.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.40 Business Hours

The Department of Business Services business hours are 8:00 a.m. to 4:30 p.m. in Springfield, Monday through Friday, except holidays.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.45 Filing Requirements

a) Corporations serving as general partners in limited partnerships or foreign limited partnerships must comply with the following:

1) a domestic corporation shall be in good standing in Illinois and the partnership registration application shall be executed by a corporate officer.

2) a foreign corporation qualified in Illinois shall be in good standing in Illinois and the partnership registration application shall be executed by a corporate officer.

3) a foreign corporation not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by that state or jurisdiction with the partnership registration application executed by a corporate officer.

b) Limited liability companies serving as general partners in limited partnerships or foreign limited partnerships must comply with the following:

1) a domestic limited liability company shall be in good standing in Illinois and the partnership registration application shall be executed by a company member or manager.

2) a foreign limited liability company qualified in Illinois shall be in good standing in Illinois and the partnership registration application shall be executed by a company member or manager.

3) a foreign limited liability company not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by that state or jurisdiction

with the partnership registration application executed by a company member or manager.

c) Limited partnerships serving as general partners in limited partnerships or foreign limited partnerships must comply with the following:

1) a domestic limited partnership must be in good standing in Illinois and the partnership registration application shall be executed by a general partner.

2) a foreign limited partnership qualified in Illinois shall be in good standing in Illinois and the partnership registration application shall be executed by a general partner.

3) a foreign limited partnership not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by that state or jurisdiction with the partnership registration application executed by a general partner.

d) General partnerships serving as general partners in limited partnerships must comply with the following:

1) both domestic and foreign general partnerships must identify their state of formation, the county of their formation, and their office of record address.

2) all partners are to be identified by name and those partners that are partnerships, corporations, limited liability companies, or other non-personal entities shall provide documentation of their existence in good standing in the states of formation or organization.

e) Trusts serving as general partners in limited partnerships must provide to the Secretary of State evidence of existence by a statement of trustee, dated and executed.

f) Estates serving as general partners in limited partnerships must provide the Secretary of State evidence of existence by a copy of the relevant court order, dated and executed.

g) All entities, other than natural persons, serving as general partners in limited partnerships must provide evidence of existence upon request of the Secretary of State, and must comply with the following:

1) any general partner using an Illinois address must be qualified in Illinois.

2) any general partner with a foreign address and not qualified in Illinois shall provide a certificate of good standing from the state of formation.

h) When filing its admission to transact business pursuant to Section 901 of the ULPA, any foreign limited partnership shall submit an original certificate of existence issued by its state or jurisdiction of formation within the preceding 30 days. The Department shall reject any proposed filing that does not contain the certificate of existence or good standing by the state or jurisdiction of formation.

i) When a limited partnership is a general partner in a newly formed limited partnership, or when the limited partnership is substituted by amendment as a general partner, then the name of the limited partnership shall be written, typed or printed in the space for the general partner on the certificate of authority or amendments to the certificate.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.50 Additional Requirements for Forms

a) All documents required by the ULPA to be filed in the Office of the Secretary of State shall be made on the most recent version of forms prescribed and furnished by the Secretary of State.

b) All documents filed with the Department, except the original certificates of limited partnership and applications for admission of a foreign limited partnership shall contain the file number assigned to the partnership by the Department.

c) All documents and attachments submitted by a limited partnership or limited liability partnership shall be typewritten on 8½ x 11" white paper.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.55 Payment of Fees

All payments of fees with respect to the filing of certificates of limited partnership or limited liability limited partnership (domestic) and certificates of admission (foreign) shall be by money order, certified check, cashier's check, or a check drawn on the account of an Illinois licensed attorney or certified public accountant, made payable to the "Secretary of State", or by a credit card, a debit card or an electronic fund transfer. All other payments may be made by entity check, payable to the "Secretary or State". Any check that is returned by the bank to the Secretary of State's Office for any reason will immediately void the transaction for which it was intended and the Secretary of State shall treat the filing event as never occurring.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.60 Sale of Information

a) Information concerning any limited partnership or limited liability limited partnership shall be available to the public from the Department of Business Services upon written request, or by telephone or in person, or, if technology is available, on line through interactive computer.

b) Information in the form of an abstract of record concerning the limited partnerships or limited liability limited partnerships on file with the Department shall be printed from the computer file of the Department, and shall consist of the limited partnership or limited liability limited partnership name, its date of formation, any assumed name, its registered agent, the address of the office at which the records are maintained, the foreign jurisdiction where formed (if applicable), the date of filing with the Department, and the file number assigned by the Department. The fee for each abstract of record requested on a routine basis shall be $25. If expedited service is requested pursuant to Section 1308 of the ULPA, an additional $20 will be required.

c) Copies and fees:

1) Copies of all documents pertaining to limited partnerships or limited liability limited partnerships on file with the Department are available:

A) upon written request and payment of the required fee;

B) by telephone request with advance payment using a credit card, a debit card or an electronic funds transfer;

C) in person and with payment of the required fee at the Department's address as set forth in Section 171.35.

2) The fee for copies and certification of any documents is established in Section 1302 of the ULPA, and the expedited fee, if applicable, for copies is established in Section 1308 of the ULPA.

d) Computer connections by non-Department users:

1) Computer terminal connections to the Secretary's computer may be provided to other State agencies. This service may be made available at no charge so long as the requesting agency incurs all costs and so long as the service does not substantially increase costs or network traffic on the Secretary's computer.

2) Computer terminal connection may be allowed to commercial users provided that all costs are borne by the commercial user. The allowance of computer terminal connections shall be contingent upon the best interests of the Office of the Secretary of State, cost-effectiveness of providing the information through computer terminal connections as opposed to other methods, and other factors that may impede the operations of the Office of the Secretary of State. This service will be suspended at any time should the connection interfere with the Secretary's internal work schedules and processing.

3) Fees for information supplied by means of computer connections between the Secretary of State's computers and those of any other agency, corporation, or person may be paid on a monthly basis for all information delivered during that month, as determined by the Secretary and the agency or person to be the economically simplest way of billing. The proper fee shall be determined by negotiation between the agency or commercial user and the Director based upon telephone line charges, rental or purchase fees for terminals, and any other appropriate factors, such as the statutory fees set forth at Sections 1302 and 1308 of the ULPA, for certificates of information and requirements of this Part.

4) No users may print any list or abstract from the computer connection. Lists of ULPA information including the names and information

concerning all limited partnerships may only be purchased pursuant to the provisions of this Part. Computer connections are to be used only to look up information. No changes on the Department's ULPA files may be made by any computer connection user.

e) Terms and conditions for computer maintained ULPA information:

1) The information supplied by the Department to other agencies, commercial users, or other persons, shall be in the abstract format only, as specified in subsection (b) of this Section.

2) The fee for the entire file of current and dissolved limited partnerships and assumed names shall be $1,500. The monthly update shall cost $400 per update. The update is available by electronic transfer only. If the file is purchased on computer disc or tape, the purchaser shall supply the Department with computer discs or tapes compatible with the Secretary's computer equipment on to which the information shall be transferred.

3) All purchase requests shall be submitted in writing to the Director. Payment shall be made to the Department before delivery of the information to the purchaser. No refunds will be made after the request is approved by the Director. Payment shall be made by check or money order payable to the "Secretary of State" or by approved credit or debit card.

4) All commercial or other type purchasers shall sign a written agreement setting forth the terms and conditions required by Illinois law, and as may be deemed appropriate after negotiation between the Department and the purchaser.

5) The commercial purchaser shall not resell to any other purchaser the information obtained from the Department in the same form or format in which it is obtained from the Department. Resale of information in the same form or format shall result in cancellation of access to information by the Department. The commercial purchaser may sell the information to the subscribers of its computer or business information services only on the basis of each limited partnership as needed by the subscriber.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.65 Refunds

No refunds of any fees shall be paid by the Department if deficiency in filings are not corrected within the required time periods.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.70 Service of Process

a) For the purposes of the ULPA, the procedures set forth in this Section shall apply.

b) Any process, notice or demand to be served under this Part shall be made upon the Secretary, or the Director, or any employee of the Department designated by the Director to accept such service for him or her, in the following manner:

1) Service shall comply with the provisions of Part 2 of the Civil Practice Law [735 ILCS 5/Art. II, Part 2], the Federal Rules of Civil Procedure (Fed. R. Civ. P. 17), or any administrative rules of service, as may be appropriate.

2) The affidavit of compliance required by Section 117 of the ULPA to be appended to the process, notice or demand to be served, containing the information described in subsection (b), shall be signed by the person instituting the action, suit or proceeding or by an attorney of record, and the signature of the affiant, without more, shall constitute the affirmation or acknowledgement, under penalties of perjury, that the affidavit is the act or deed of the affiant and that the facts stated in the affidavit are true.

c) The affidavit of compliance shall state:

1) the title of the court or administrative agency;

2) the title of the case, showing the names of the first named plaintiff and the first named defendant;

3) the number of the case;

4) the title of the instrument;

5) the title of the limited partnership to be served;

6) the basis for service on the Secretary;

7) the address to which the instrument is to be sent (by registered or certified mail) by the affiant;

8) the name, address and telephone number of the attorney of record for the plaintiff or other affiant.

d) Service of any process, notice or demand made under this Part shall be made with the Department at the address set forth in Section 171.35.

e) At the time of any service under this Part, there shall be paid a fee of $50 (see Section 1302 of the ULPA), payable by check or money order to the "Secretary of State". Each process, notice or demand shall be submitted with separate payment.

f) The Department shall maintain original file copies, which shall be in paper form or an acceptable archival medium, and originals may be discarded upon verification of archival medium (microfilm or electronic imaging) and upon approval by the State Records Commission (see 5 ILCS 160/16).

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.75 Interrogatories

a) The Secretary of State may propound to any limited partnership or limited liability limited partnership subject to the provisions of the ULPA, and to any partner, such interrogatories as may be reasonably necessary and proper to enable the Secretary to ascertain whether the limited partnership or limited liability limited partnership has complied with all the applicable provisions of the ULPA and this Part. The interrogatories shall be answered within 30 days after their mailing, or within such additional time as shall be fixed by the Secretary, and the answers shall be full and complete, and shall be made in writing and under oath. If the interrogatories are directed to a person, they shall be answered by him or her. If directed to a limited partnership or limited liability limited partnership, they shall be answered by the general partners or limited partners. The Secretary need not file any document to which the interrogatories relate until the

interrogatories are answered as required by this subsection and not then if the answers disclose that the document is not in conformity with the provisions of the ULPA and this Part. The Secretary of State shall certify to the Attorney General, for such action as the Attorney General may deem appropriate, all interrogatories and answers that disclose a violation of any of the provisions of the ULPA and this Part.

b) Interrogatories propounded by the Secretary of State and the answers to those interrogatories shall not be open to public inspection, nor shall the Secretary disclose any facts or information obtained from interrogatories or answers, except insofar as official duty may require them to be made public or in the event the interrogatories or the answers are required for evidence in any criminal proceeding or in any other action by the State.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 171.80 Right to Counsel

a) Hearing procedures will be governed by 14 Ill. Adm. Code 150, Subpart A.

b) Any party may appear and be heard through an attorney at law licensed to practice in the State of Illinois.

1) Attorneys admitted to practice in states other than the State of Illinois may appear and be heard upon the attorney's verbal representation or written documentation as to the attorney's admittance, pursuant to an Order prohac vice, entered by a judge of the circuit court of the county in which the hearing is conducted, as provided in Supreme Court Rule 707.

2) A natural person may appear and be heard on his or her own behalf.

3) A corporation, limited liability company, association or partnership may appear and present evidence by any bona fide officer, employee or representative.

c) Only an attorney properly licensed shall represent anyone else in any hearing in any matter involving the exercise of legal skill or knowledge. The standards of conduct shall be the same as before the Courts of the State of Illinois.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 31 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Tobacco Products Manufacturers' Escrow Enforcement Act of 2003

2) Code Citation: 14 Ill. Adm. Code 250

3)

Section Numbers:	Adopted Action:
250.20	Amendment
250.30	Amendment
250.50	Amendment
250.70	Amendment
250.80	Amendment
250.100	Amendment
250.110	Amendment

4) Statutory Authority: 30 ILCS 167/25 and 35

5) Effective Date of Amendments: August 24, 2007

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

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file and is available for public inspection in the Attorney General's principal office in Chicago (12th Floor, James R. Thompson Center).

9) Notice of Proposal Published in Illinois Register: April 20, 2007; 31 Ill. Reg. 5916

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: Nonsubstantive punctuation, grammar, and format changes have been 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 these amendments replace any emergency amendments currently in effect? No

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

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: The Attorney General is required to maintain a directory of participating manufacturers in addition to a directory of tobacco product manufacturers who, although they have not participated in the Master Settlement Agreement with the State, are, based upon units sold in the State, maintaining adequately funded escrow accounts as required by law. Part 250 establishes procedures through which the Attorney General carries out this responsibility and manufacturers may be included on the directories. In this rulemaking the procedures for denying or removing a tobacco product manufacturer from placement on the directories are amended to establish a procedure for allowing a manufacturer to cure deficiencies within 10 calendar days of receiving a notice of intent to deny and to add to the factors upon which the Attorney General's Office may rely in deciding whether to list a manufacturer or brand family on the directory. All references to the National Association of Attorneys General's list of tobacco product manufacturers and the Director of Revenue's receiving notice of appointment of an agent for service of process are removed. These amendments clarify the definition of "units sold" to include roll-your-own tobacco for which tobacco products tax is owed even though that type of tobacco product does not bear excise tax stamps, and they permit, rather than require, distributors to provide electronic mail addresses to the Attorney General's Office. They also include a reference to the manufacturers' statutory right to request judicial review of an adverse determination by the Attorney General's Office as to inclusion on the directory or the making of deposits in quarterly installments.

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

Marilyn Kueper, Chief
Tobacco Enforcement Bureau
Office of the Attorney General
500 S. Second Street
Springfield, IL 62706

217/785-8541

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

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER II: ATTORNEY GENERAL

PART 250
TOBACCO PRODUCTS MANUFACTURERS'
ESCROW ENFORCEMENT ACT OF 2003

Section

250.10 General
250.20 Definitions
250.30 Distributor Filings
250.40 Prohibition of Distribution of Non-Compliant TPM Cigarettes
250.50 Appointment of Agent for Service of Process
250.60 Certification Requirements for Tobacco Product Manufacturers
250.70 NPMs Required to Make Quarterly Installment Payments
250.80 Establishment of Directory of Participating Manufacturers and Directory of Compliant NPMs
250.90 Release of Escrow Account Money
250.100 Review of AGO Determinations
250.110 Violations

AUTHORITY: Implementing and authorized by Sections 25 and 35 of the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 [30 ILCS 167].

SOURCE: Adopted at 27 Ill. Reg. 7719, effective April 16, 2003; emergency amendment at 28 Ill. Reg. 939, effective January 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7904, effective May 28, 2004; amended at 31 Ill. Reg. 12718, effective August 24, 2007.

Section 250.20 Definitions

"AGO" means the Office of the Illinois Attorney General.

"Brand family" has the same meaning prescribed in Section 10 of the Escrow Enforcement Act.

"Cigarette" has the same meaning prescribed in Section 10 of the Escrow Act [30 ILCS 168], which includes roll-your-own ("RYO") tobacco.

NOTICE OF ADOPTED AMENDMENTS

"Department" means the Illinois Department of Revenue.

"Director" means Director of Revenue.

"Distributor" has the same meaning prescribed in Section 1 of the Cigarette Tax Act [35 ILCS 130], and Section 1 of the Cigarette Use Tax Act [35 ILCS 135], and, in addition, means a distributor of roll-your-own tobacco in accordance with Section 10-5 of the Tobacco Products Tax Act of 1995 [35 ILCS 143], as appropriate.

"Escrow Act" means the Tobacco Product Manufacturers' Escrow Act [30 ILCS 168].

"Escrow Enforcement Act" means the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 [30 ILCS 167] (see P.A. 93-446).

"Filed" means received by the AGO in readable form, however transmitted, or postmarked for delivery by the U.S. mail.

"Liability year" means the calendar year in which a tobacco product manufacturer's cigarettes are sold in Illinois, and to which the requirements of the Escrow Act apply.

"NPM" means a tobacco product manufacturer that is not a Participating Manufacturer.

"Participating manufacturer" has the same meaning prescribed in Section 15(a)(1) of the Escrow Act [30 ILCS 168].

"Qualified Escrow Fund" has the same meaning prescribed in Section 10 of the Escrow Act.

"Stamps or imprints" means revenue tax stamps or imprints as provided for in Section 3 of the Cigarette Tax Act or stamps or imprints evidencing the payment of cigarette use tax as provided for in Section 3 of the Cigarette Use Tax Act, as appropriate.

"Tobacco product manufacturer" or "TPM" has the same meaning prescribed in Section 10 of the Escrow Act.

"Units sold" has the same meaning prescribed in Section 10 of the Escrow Act and includes "roll-your-own" tobacco for which tobacco products tax is owed and does not bear an excise tax stamp of the State.

(Source: Amended at 31 Ill. Reg. 12718, effective August 24, 2007)

Section 250.30 Distributor Filings

a) Each distributor shall report quarterly to the AGO on paper or electronic forms provided by the AGO such information as is necessary for the AGO to ascertain the quantity of each NPM's cigarettes sold in Illinois by the distributor during the preceding quarter. Paper forms shall be sent to: Office of the Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706. Paper forms may alternatively be faxed to (217)524-4701. Electronic forms shall be e-mailed to tobacco@atg.state.il.us. The quarterly information to be reported shall include:

1) The number of each NPM's cigarettes distributed by the distributor within Illinois, by brand.

2) The equivalent stick count of each NPM's RYO tobacco distributed by the distributor within Illinois, by brand.

3) The NPM name and address for each brand.

4) The name and address of the person or entity from whom the distributor purchased or obtained the brand.

5) The name and address of the first importer of foreign NPM brands or the first purchaser of non-resident NPM brands.

b) The information required by subsection (a) shall be filed prior to the 20th day after the end of each calendar quarter. The filing for:

1) January, February, and March is due on or before April 20.

2) April, May, and June is due on or before July 20.

3) July, August, and September is due on or before October 20.

4) October, November, and December is due on or before January 20 of the following year.

c) Distributors not selling any NPM brands for the relevant time period shall timely file a form as described in subsection (a) marked "none".

d) Distributors shall maintain and make available to the Attorney General all records, invoices, and documentation relating to or reflecting purchases and sales of NPM cigarettes, which records, invoices and documentation provide a basis for the filings under subsection (a), for a period of not less than five years after the date of sale.

e) Distributors may~~shall~~ provide an electronic mail address to the AGO for the purpose of receiving electronic mail updates and notifications.

f) Distributors shall provide any additional information requested by the AGO including, but not limited to, samples of packaging, labeling of each brand family, names of customers and quantities of each brand sold to them and a statement signed by an officer of the manufacturer, under penalty of perjury, certifying whether the manufacturer is, or is not, a participating tobacco manufacturer under the MSA.

g) Distributors not complying with this Section 250.30, or filing false or inaccurate information with the AGO, may be deemed to be in violation of the Escrow Enforcement Act and dealt with in accordance with Section 250.110.

(Source: Amended at 31 Ill. Reg. 12718, effective August 24, 2007)

Section 250.50 Appointment of Agent for Service of Process

a) Any non-resident or foreign NPM that has not registered to do business in this State shall appoint an agent located within the State of Illinois to receive service of process on behalf of that non-resident or foreign NPM. On forms provided by the AGO, the NPM shall submit the name, address, phone number, company name (if applicable) and hours of availability of the agent, as well as proof of appointment, to ~~the Director and~~ the AGO.

b) If the NPM terminates the authority of the agent, the NPM shall notify ~~the Director and~~ the AGO of the termination at least 30 calendar days prior to the termination, and provide proof at least 5 calendar days prior to the termination of the appointment of a new agent. If the agent terminates an agency appointment, the NPM shall notify ~~the Director and~~ the AGO of the termination no later than 5 calendar days after the termination, and shall include proof of the appointment of a new agent.

c) Any foreign or non-resident NPM that fails to appoint an agent as required by this Section and in Section 20 of the Escrow Enforcement Act shall be deemed to appoint the Illinois Secretary of State as the agent on whom process may be served on its behalf. However, such appointment will not satisfy the condition precedent for having its brand families listed in the directory of compliant NPMs.

(Source: Amended at 31 Ill. Reg. 12718, effective August 24, 2007)

Section 250.70 NPMs Required to Make Quarterly Installment Payments

a) Whenever the AGO determines that compliance with the Escrow Act will be promoted by requiring certification and escrow deposits more frequently than on an annual basis, the AGO may require an NPM, on a case-by-case basis, to certify its compliance with the Escrow Act and make its required escrow deposits in quarterly installments during the Liability Year. The notice of the AGO's determination requiring the payment of quarterly installments shall be a final administrative decision reviewable under the Administrative Review Law [735 ILCS 5/Art. III]. Factors which may be considered in making this determination include, but are not limited to, the following:

1) the initial addition of an NPM to the directory of compliant NPMs;

2) a history of the NPM not complying with the Escrow Act;

3) a history of the NPM under-funding its qualified escrow account;

4) a history of the NPM failing to timely pay, or failing to pay entirely, judgments or penalties due under the Escrow Act to a qualified escrow account or to the AGO;

5) credible evidence supporting a concern by the AGO that the NPM may not be financially able to meet its fiscal obligations under the Escrow Act when they become due on April 30 of the following calendar year;

6) a volume of more than 2,000,000 cigarettes sold during a calendar quarter.

b) The ~~initial~~ notice of the AGO's determination requiring the payment of quarterly installments shall include:

1) the basis for the determination;

2) the date the first quarterly payment is due, such date being a minimum of 30 days after the date of notice;

3) that the NPM may request judicial review of the AGO's determination in the manner set forth in Section 250.100 ~~no later than 30 days after the date of notice~~;

4) the requirement that quarterly installment payments shall be made for four quarters where the basis for quarterly installment payments is the initial addition of an NPM to the directory of compliant NPMs; and

5) a copy of the State of Illinois Affidavit of Nonparticipating Manufacturer Regarding Quarterly Escrow Payment.

c) Each NPM required to make quarterly installment payments shall:

1) make its required escrow deposit based upon Illinois sales for the previous quarter;

2) provide proof of deposit for each quarterly installment;

3) file quarterly with the AGO the State of Illinois Affidavit of Nonparticipating Manufacturer Regarding Quarterly Escrow Payment; and

4) file a State of Illinois Affidavit of Nonparticipating Manufacturer Regarding Escrow Reconciliation Payment, make a final reconciliation payment and provide proof of deposit on or before April 15 of the year following the liability year.

d) The information required by subsection (c) shall be filed on or before the last day of the month following the end of the quarter. The filing for:

1) January, February, and March is due on or before April 30.

2) April, May and June is due on or before July 31.

3) July, August and September is due on or before October 31.

4) October, November and December is due on or before January 31 of the following year.

e) The AGO shall notify the NPM of the date it can cease making quarterly installment payments.

f) NPMs not complying with this Section, or filing false or inaccurate information with the AGO, may be deemed to be in violation of the Escrow Enforcement Act and will be dealt with in accordance with Section 250.110. In addition, NPMs not complying with this Section shall be subject to a penalty not to exceed 5% of the amount improperly withheld from escrow per each day of the violation, and in a total amount not to exceed 100% of the original amount improperly withheld from escrow.

(Source: Amended at 31 Ill. Reg. 12718, effective August 24, 2007)

Section 250.80 Establishment of Directory of Participating Manufacturers and Directory of Compliant NPMs

a) The AGO shall develop, maintain, and publish a directory of participating manufacturers who have generally performed their financial obligations under the MSA ~~(or provide a web address link to a directory maintained by the National Association of Attorneys General)~~, and a separate directory of compliant NPMs who have established a qualified escrow account and who are otherwise in compliance with Section 15(a)(2) of the Escrow Act and Section 15(a)(2) and (3) of the Escrow Enforcement Act.

b) The directories shall be published on the AGO's website (www.illinoisattorneygeneral.gov) and shall be revised as necessary as new information is received by the AGO.

1) If the AGO intends to remove or not list a TPM from the directory, the AGO shall send a notice of intent to deny the TPM or its agent for service of process. The notice of intent to deny shall include:

A) the factual and legal deficiencies upon which the AGO's intended action rests,

B) the actions that the TPM must undertake to cure the factual or legal deficiencies upon which the intended action is based, and

C) a notification that the TPM shall have 10 calendar days to cure deficiencies and submit documentation or other information of its attempt to cure to the AGO.

2) The AGO may extend the time period for a TPM to cure its deficiencies.

c) If the TPM's deficiencies have been cured, a notice of approval shall be sent to the TPM or its agent for service of process. If the TPM's deficiencies have not been cured, a notice of removal or refusal to list shall be sent to the TPM or its agent for service of process. The notice of approval, removal or refusal to list shall be sent by certified or registered U.S. Mail or by other commercial mail delivery service 10 days prior to the change. The notice of approval, removal or refusal to list shall be a final administrative decision. Any TPM may request judicial review of the final administrative decision in the manner set forth in Section 250.100.

d) If the AGO decides to add or remove a TPM or brand family from the directory, a notice~~Notice of the addition or removal of an NPM or brand family from the directory~~ shall be sent~~provided~~ to distributors. The notice to distributors shall be sent by U.S. Mail or by other commercial mail delivery service 10 calendar days prior to the change. ~~Notice of such change shall also be provided to the NPM that is being added or removed (or whose brand family is being added or removed). The notice shall be sent to the NPM or its agent for service of process by certified mail 10 calendar days prior to the change.~~

e~~c~~) The AGO shall not place an NPM on the directory of compliant NPMs unless all outstanding final judgments (including interest thereon) for violations of the Escrow Act and the Escrow Enforcement Act have been fully satisfied for that brand family and NPM, and:

1) the NPM has had sales in one or more Liability Years prior to the date of the directory's publication and it is in full compliance with its escrow obligations under the Escrow Act and the Escrow Enforcement Act and Section 250.70 as to such sales, including the payment of any applicable penalties; or

2) the NPM is a successor to a tobacco product manufacturer that has had sales in one or more Liability Years prior to the date of the directory's publication, and it has deposited funds into a qualified escrow account to fully fund all prior Liability Year obligations for all of its predecessor's brands and paid all the penalties due for all such brands for all prior Liability Years, if the NPM's predecessor has not already done so; or

3) the NPM has had no sales in any prior Liability Years but has established a qualifying escrow account (as evidenced by an approved Escrow Agreement) and is otherwise compliant with the Escrow Act and the Escrow Enforcement Act.

f~~d~~) Under Section 15(a)(2) of the Escrow Act, each NPM for a particular brand family is jointly and severally liable with every other NPM for that particular brand family for all Liability Year escrow obligations and penalties.

g~~e~~) In determining compliance for purposes of placing a TPM~~an NPM~~ on the directory of participating manufacturers and the directory of compliant NPMs, the AGO may consider the following factors:

1) the requirements for placement on the directory as set forth in this Part and in the Acts;

2) distributor filings;

3~~2~~) the TPM's~~NPM's~~ certifications, ~~and~~ affidavits, and supporting documents;

4) the lack of completeness of the TPM's certifications, affidavits, and supporting documents;

5~~3~~) the NPM's escrow agreement;

6) the failure of a TPM who is a PM to generally perform its financial obligations under the MSA, or of the TPM, predecessor of the TPM, or previous TPM of the brand families to make its full MSA payments unless as provided in MSA § XI(d);

7) the failure of the NPM, predecessor of the NPM, or previous NPM of the brand families to timely pay or fully fund its qualified escrow account or to timely or entirely pay judgments or penalties due to a qualified escrow account or to the AGO under the Escrow Act or other states' tobacco statutes;

~~4) the timeliness of the NPM's deposits into the escrow account;~~

~~5) the timeliness of the NPM's payment of penalties due;~~

~~6) the requirements for placement on the directory as set forth in this Part and in the Acts;~~

8~~7~~) whether the TPM~~NPM~~ is, in fact, the manufacturer of the brands with respect to which the TPM~~NPM~~ seeks to be listed as compliant; ~~and~~

9) whether acting on its own or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries or another TPM, the TPM's having engaged in business as a distributor (as defined in the Tobacco Products Tax Act of 1995 [35 ILCS 143]) without first having obtained a license to do so from the Department;

10) the TPM's failure to cure the deficiencies identified in a notice of intent to deny under this Part within 10 calendar days after receiving the notice;

11) the TPM's failure to provide additional information as requested by the AGO;

12~~8~~) information from any other source (e.g., U.S. Department of the Treasury, Department of Revenue, distributors) that pertains to the verification of the accuracy of the information provided by the TPM~~NPM;~~.

13) whether the TPM is controlled, managed, or operated by a person with a current or prior interest in any other TPM that is not or has not been compliant with the Escrow Act or that is the subject of an injunction for failure to comply with the Escrow Act; and

14) any other facts or circumstances that are relevant to the certification of the TPM.

(Source: Amended at 31 Ill. Reg. 12718, effective August 24, 2007)

Section 250.100 Review of AGO Determinations

All AGO's determinations of removal or refusal to list and AGO's determinations regarding quarterly installments shall be final administrative decisions. Any TPM dissatisfied with the AGO's determination of removal or refusal to list~~compliance~~, or with the AGO's determination regarding quarterly installments, may obtain judicial review, which shall be governed by the provisions of the Administrative Review Law [735 ILCS 5/Art. III].~~submit documents relevant to the determination to the AGO and request review of the determination by an Assistant Attorney General who is designated by the Attorney General to undertake such reviews and who did not participate in the initial determination. Any such request for a determination shall be submitted in writing to: Office of the Illinois Attorney General, Special Litigation Bureau, 100 West Randolph Street, 13th Floor, Chicago, Illinois, 60601. The burden of proof shall be on the TPM to establish that it or a particular brand family is entitled to be listed in the directory.~~

(Source: Amended at 31 Ill. Reg. 12718, effective August 24, 2007)

Section 250.110 Violations

a) The AGO may investigate conduct that appears to be in violation of the Escrow Act, the Escrow Enforcement Act, or this Part, and may request the assistance of the Department in accordance with its investigatory powers under the Cigarette Tax Act [35 ILCS 130], the Cigarette Use Tax Act [35 ILCS 135], or the Tobacco Products Tax Act of 1995 [35 ILCS 143].

b) If the AGO determines that a violation has occurred, it shall give written notice to the distributor or the TPM~~NPM~~ that has committed the violation and shall provide written notice of the violation to the Director. The notice shall include copies of any documents evidencing the violation and a recommendation for revocation or suspension of license pursuant to Section 6 of the Cigarette Tax Act, Section 6 of the Cigarette Use Tax Act, or Section 10-25 of the Tobacco Products Tax Act of 1995, as appropriate.

c) The AGO may initiate litigation in Circuit Court to enforce the provisions of the Escrow Act, the Escrow Enforcement Act, and this Part, or to seek an injunction to restrain a threatened or actual violation of the Acts or rules. In any such action, the AGO shall be entitled to recover the costs of the investigation, the costs of the litigation, and reasonable attorney fees.

(Source: Amended at 31 Ill. Reg. 12718, effective August 24, 2007)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Advertising and Sales Promotion of Life Insurance and Annuities

2) Code Citation: 50 Ill. Adm. Code 909

3)

Section Numbers:	Adopted Action:
909.10	Amendment
909.20	Amendment
909.85	New Section
909.90	Amendment
909.100	Amendment

4) Statutory Authority: Implementing Sections 149, 151, 236, 237, 426 and Article XXXI and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/149, 151, 236, 237, 401, 426 and Article XXXI]

5) Effective Date of Rulemaking: January 1, 2008

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 3228; March 2, 2007

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version:

a) In Section 909.20, added "*Insurance Producer means a person required to be licensed under the laws of this State to sell, solicit, or negotiate insurance* [215 ILCS 5/500-10].".

b) In Section 909.85(a), on the second line, deleted "true or fictitious with regard to the status, character or proprietary or representative capacity of the entity or person, or to the true purpose of the advertisement".

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

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

15) Summary and Purpose of Rulemaking: The adopted amendments to this Part include provisions borrowed from California law and are designed to prohibit certain predatory practices in the sale of variable life insurance and annuities to senior citizens. Additionally, the amendments require that insurers maintain a system of control so that recommendations of such products are not unsuitable to the applicant.

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

Mary Petersen, Acting Supervisor, L/A&H Consumer Complaints
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

217/782-5822

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION~~INSURANCE~~
SUBCHAPTER l: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 909
ADVERTISING AND SALES PROMOTION OF
LIFE INSURANCE AND ANNUITIES

Section
909.10 Authority
909.20 Definitions
909.30 Applicability
909.40 Form and Content of Advertisements
909.50 Disclosure Requirements
909.60 Identity of Insurer
909.70 Jurisdictional Licensing and Status of Insurer
909.80 Statements about an Insurer
909.85 Advertising and Marketing of Annuities and Variable Life Contracts
909.90 Advertising Records and Certificate~~Enforcement Procedures~~
909.100 Noncompliance~~Penalties~~
909.110 Conflict with Other Rules
909.120 Severability Provision

AUTHORITY: Implementing Sections 149, 151, 236, 237, 426 and Article XXXI and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/149, 151, 236, 237, 401, 426 and Article XXXI].

SOURCE: Filed April 26, 1976, effective May 7, 1976; codified at 7 Ill. Reg. 3460; amended at 14 Ill. Reg. 13584, effective August 14, 1990; amended at 15 Ill. Reg. 15665, effective October 18, 1991; amended at 22 Ill. Reg. 3027, effective June 1, 1998; amended at 22 Ill. Reg. 16468, effective September 1, 1998; amended at 26 Ill. Reg. 16500, effective October 28, 2002; amended at 28 Ill. Reg. 4591, effective March 1, 2004; amended at 31 Ill. Reg. 12732, effective January 1, 2008.

Section 909.10 Authority

This Part is issued by the Director of Insurance pursuant to Sections~~Section~~ 401 and 500-145 of the Illinois Insurance Code [215 ILCS 5/401 and 500-145], which empower~~empowers~~ the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Director *to make reasonable rules and regulations as may be necessary for making effective* the insurance laws of this State. The purpose of this Part is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising or solicitation of life insurance policies and annuity contracts. This Part implements the Illinois Insurance Code [215 ILCS 5] by defining acts and practices that~~which~~ constitute a violation of one or more of the following Sections of the Illinois Insurance Code: Sections 149, 151, 236, 237 and~~,~~ 426 and Article XXXI~~500-85~~ [215 ILCS 5/149, 151, 236, 237 and~~,~~ 426 and Article XXXI~~500-85~~], which generally relate to the use of false or misleading statements and certain prohibited actions in the sale of insurance and that~~which~~ apply variously to life insurance companies and to insurance producers and solicitors.

(Source: Amended at 31 Ill. Reg. 12732, effective January 1, 2008)

Section 909.20 Definitions

For the purpose of this Part:

Advertisement ~~for the purpose of this Part~~ shall not include:

Communications or materials used within an insurer's own organization and not intended for dissemination to the public;

Communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy;

A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged, provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

Advertisement means~~shall be~~ material designed to create public interest in life insurance or annuities or in an insurer, or to induce the public to purchase, increase, modify, reinstate or retain a policy including:

Printed and published material, audio-visual material and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio and television scripts, billboards and similar displays;

Descriptive literature and sales aids of all kinds issued by an insurer or agent, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters;

Material used for the recruitment, training, and education of an insurer's sales personnel, agents, solicitors and brokers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate or retain a policy;

Prepared sales talks, presentations, and material for use by sales personnel, agents, solicitors and brokers.

Code means the Illinois Insurance Code [215 ILCS 5].

Currently Payable Scale means a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration, or declared to become effective within the next 95 days of the preparation date.

Department means the Department of Financial and Professional Regulation.

Director means the Director of the Illinois Department of Financial and Professional Regulation-Division of Insurance.

Disciplined Current Scale~~current scale~~ means a scale of non-guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. The standards established by the Actuarial Standards Board (ASB) (1720 I Street, N.W., 7th Floor, Washington, D.C. 20006) (Actuarial Standard of Practice No. 24, Compliance with the NAIC Life Insurance Illustrations Model Regulation as of December 1995, no subsequent dates or editions) may be relied upon if the standards:

Are consistent with all provisions of this Part;

Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;

Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience

beyond the illustration date; and

Do not permit assumed expenses to be less than minimum assumed expenses.

Division means the Illinois Department of Financial and Professional Regulation-Division of Insurance.

Illustrated Scale~~scale~~ means a scale of non-guaranteed elements, currently being illustrated for policies other than variable life insurance, individual and group annuity contracts, credit life insurance, or life insurance policies and certificates with guaranteed death benefits of $10,000 or less, or illustrated death benefits less than $15,000, that is not more favorable to the policy owner than the lesser of:

The disciplined current scale; or

The currently payable scale.

Insurance Producer means a person required to be licensed under the laws of this State to sell, solicit, or negotiate insurance [215 ILCS 5/500-10].

Insurer shall include any organization or person which issues life insurance or annuities to residents of this State.

Non-guaranteed Elements~~elements~~ means premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

Policy shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides for life insurance or annuity benefits.

Preneed Funeral Contract or Prearrangement shall mean an arrangement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

(Source: Amended at 31 Ill. Reg. 12732, effective January 1, 2008)

Section 909.85 Advertising and Marketing of Annuities and Variable Life Contracts

With respect to annuities and variable life contracts, any advertisement or other device designed to produce leads based on a response from a potential insured that is directed toward persons age 65 or older shall prominently disclose that an insurer or insurance producer may contact the applicant if that is the fact. In addition, an insurer or insurance producer who makes contact with a person as a result of acquiring that person's name from a lead generating device shall disclose that fact in the initial contact with the person.

a) No insurer, insurance producer, solicitor, or other person or other entity shall solicit persons age 65 and older in this State through the use of a name that is deceptive or misleading.

b) Advertisements shall not employ words, letters, initials, symbols or other devices that are so similar to those used by governmental agencies, a nonprofit or charitable institution, senior organization, or other insurer that they could have the capacity or tendency to mislead the public.

c) No advertisement may imply that the reader may lose a right or privilege or benefits under federal, State, or local law if he or she fails to respond to the advertisement.

d) An insurer, insurance producer, or other entity may not use an address so as to mislead or deceive as to the true identity, location, or licensing status of the insurer, insurance producer, or other entity.

e) In addition to any other prohibition on untrue, deceptive, or misleading advertisements, no advertisement for an event where insurance products will be offered for sale may use the terms "seminar", "class", "informational meeting", or substantially equivalent terms to characterize the purpose of the public gathering or event unless it adds the words "and insurance sales presentation" immediately following those terms in the same type size and font as those terms.

(Source: Added at 31 Ill. Reg. 12732, effective January 1, 2008)

Section 909.90 Advertising Records and Certificate~~Enforcement Procedures~~

a) Each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter disseminated in this State, with a notation indicating the manner and

extent of distribution and the form number of any policy advertised. The file shall be subject to inspection by this Division~~Department~~. All the advertisements shall be maintained in the file for a period of either four years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time.

b) Every insurer subject to the provisions of this Part shall prepare and maintain a certificate of compliance that will be placed on file with the company, together with the materials identified in subsection (a). The certificate shall be executed by an authorized officer of the insurer wherein it is stated that, to the best of his or her knowledge, information and belief, the advertisements which were disseminated by or on behalf of the insurer in this State during the preceding statement year, or during the portion of such year when this Part was in effect, complied or were made to comply in all respects with the provisions of this Part and the Insurance Laws of this State as implemented and interpreted by this Part.

(Source: Amended at 31 Ill. Reg. 12732, effective January 1, 2008)

Section 909.100 Noncompliance~~Penalties~~

Violation of the requirements of this Part shall be an unfair trade practice, and evidence of incompetence or untrustworthiness in the conduct of business under Section 500-70(a)(7) and (8) of the Code.~~Any insurer or any of its officers, directors, producers or employees which, or who, violate any of the provisions of this Part, or knowingly participate in or abet such violation, shall be subject to a fine up to $1000 for each violation and/or subject to suspension or revocation of their certificate of authority or license.~~

(Source: Amended at 31 Ill. Reg. 12732, effective January 1, 2008)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Licensing and Suitability Requirements for the Solicitation of Variable Contracts

2) Code Citation: 50 Ill. Adm. Code 3117

3)

Section Numbers:	Adopted Action:
3117.10	Amendment
3117.20	Amendment
3117.25	New Section
3117.40	Amendment
3117.200	New Section
3117.210	New Section

4) Statutory Authority: Implementing Article XXXI and authorized by Section 401 and 500-145 of the Illinois Insurance Code [215 ILCS 5/Art. XXXI, 401 and 500-145].

5) Effective Date of Rulemaking: January 1, 2008

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

7) Does this rulemaking contain incorporations by reference? Yes. Please see Section 3117.200 of this Part.

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 3236; March 2, 2007

10) Has JCAR issued a Statement of Objection to this Rulemaking? No

11) Differences between proposal and final version:

a) In Section 3117.20, on the fifth line, deleted "annuities or" and added "life insurance" following "variable". Struck the last sentence entirely.

b) In Section 3117.25, in the definition of "Recommendation", deleted "an annuity" and added "a variable life insurance contract".

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

c) In Section 3117.25, added "Variable Contract shall mean any policy or contract that provides for benefits or annuity benefits that vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, as provided for in Section 245.21 of the Illinois Insurance Code [215 ILCS 5/245.21].".

d) In Section 3117.40, on the second line, added "Series 7 Exam for General Securities Representatives or the Series 6 Exam for Limited Securities Representatives" following "(NASD)" and struck "or Securities and Exchange Commission (SEC) examination". In the second sentence, struck "or (SEC)".

e) In Section 3117.200, on the first line, following "made", added "by an insurance producer, or insurer where no producer is involved," and also deleted "and no variable life insurance policy shall be issued,". And finally, added the following sentence: "Compliance with the National Association of Securities Dealers Conduct Rules (1735 K Street, N.W., Washington, DC 20006) (adopted by SR-NASD-95-39, effective August 20, 1996, no later editions or amendments are included) pertaining to suitability shall satisfy the requirements under this Section for the recommendation of variable life insurance policies. However, nothing in this Section shall limit the Director's ability to enforce the provisions of this Part.".

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

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

15) Summary and purpose of rulemaking: The adopted amendments update the regulation and supplement requirements for solicitation of variable life insurance, so that products are not recommended that are unsuitable to the applicant in view of their financial situation.

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

Kelly Kruger, Assistant Deputy Director, Producer Division
Department of Financial and Professional Regulation
Division of Insurance

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

320 West Washington Street
Springfield, Illinois 62767-0001

217/785-2263

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION~~INSURANCE~~
SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE REPRESENTATIVES AND REGISTERED FIRMS

PART 3117
LICENSING AND SUITABILITY REQUIREMENTS FOR THE SOLICITATION OF VARIABLE CONTRACTS

Section
3117.10 Authority
3117.20 Scope
3117.25 Definitions
3117.30 Definitions (Repealed)
3117.40 Procedure for Obtaining a Variable Contract License
3117.50 Agents (Repealed)
3117.60 Resident Brokers (Repealed)
3117.70 Nonresident Brokers (Repealed)
3117.80 Agents and Brokers Doing Business Under an Assumed Trade or Firm Name (Repealed)
3117.90 Cancellation of Agent/Broker Licenses (Repealed)
3117.100 Renewals (Repealed)
3117.110 Certifications/Clearances (Repealed)
3117.200 Suitability
3117.210 Noncompliance

AUTHORITY: Implementing Article XXXI and authorized by Sections 401 and 500-145 of the Illinois Insurance Code [215 ILCS 5/Art. XXXI, 401 and 500-145].

SOURCE: Emergency rule adopted at 4 Ill. Reg. 24, p. 663, effective June 2, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 44, p. 462, effective October 22, 1980; codified at 7 Ill. Reg. 3014; amended at 9 Ill. Reg. 6709, effective April 26, 1985; amended at 31 Ill. Reg. 12740, effective January 1, 2008.

Section 3117.10 Authority

This~~The~~ Part is promulgated by the Director of Insurance pursuant to Sections~~Section~~ 401 and 500-145 of the Illinois Insurance Code [215 ILCS 5/401 and 500-145]~~(Ill. Rev. Stat. 1981, ch.~~

~~73, par. 1013) which empowers the Director *".... to make reasonable rules and regulations as may be necessary for making effective ...."* the insurance laws of this State~~. The purpose of this Part is to implement Article XXXI~~Section 494.1~~ of the Illinois Insurance Code.

(Source: Amended at 31 Ill. Reg. 12740, effective January 1, 2008)

Section 3117.20 Scope and Purpose

This Part applies to individuals holding an Insurance Producer License, as defined in Section 500-10~~491.1~~ of the Illinois Insurance Code~~ (Ill. Rev. Stat. 1983, ch. 73, par. 1065.38-1)~~, which, at the minimum, includes the authority to write Class l(a) life insurance, as classified in Section 4 of the Code [215 ILCS 5/4]~~(Ill. Rev. Stat. 1983, ch. 73, par. 616)~~, and, with respect to suitability, to insurance producers and issuers of~~who wish to solicit~~ variable life insurance contracts.

(Source: Amended at 31 Ill. Reg. 12740, effective January 1, 2008)

Section 3117.25 Definitions

Code means the Illinois Insurance Code [215 ILCS 5].

Department means the Department of Financial and Professional Regulation.

Director means the Director of the Illinois Department of Financial and Professional Regulation-Division of Insurance.

Division means the Illinois Department of Financial and Professional Regulation-Division of Insurance.

Insurance producer means a person required to be licensed under the laws of this State to sell, solicit, or negotiate insurance.

Recommendation means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase or exchange of a variable life insurance contract in accordance with that advice.

Variable Contract shall mean any policy or contract that provides for benefits or annuity benefits that vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, as

provided for in Section 245.21 of the Illinois Insurance Code [215 ILCS 5/245.21].

(Source: Added at 31 Ill. Reg. 12740, effective January 1, 2008)

Section 3117.40 Procedure for Obtaining a Variable Contract License

An individual who has passed the Division's~~Department's~~ written Life Insurance Licensing Qualification Examination and either the National Association of Security Dealers (NASD) Series 7 Exam for General Securities Representatives or the Series 6 Exam for Limited Securities Representatives~~or Securities and Exchange Commission (SEC) examination~~ may apply for a variable contract license. The individual must complete the form prescribed by the Director, including providing the Director with a copy of the individual's NASD ~~or SEC~~ examination score. Upon completion of the above requirements, the Director shall issue a variable contract license to the individual.

(Source: Amended at 31 Ill. Reg. 12740, effective January 1, 2008)

Section 3117.200 Suitability

No recommendation shall be made by an insurance producer, or insurer where no procedure is involved, to an applicant to purchase a variable life insurance policy, on an individual basis, in the absence of reasonable grounds to believe that the purchase of the policy is not unsuitable for the applicant on the basis of information furnished after reasonable inquiry of the applicant concerning the applicant's age, insurance and investment objectives, financial situation, needs and tax status, and any other information known to the insurer or producer making the recommendation. Compliance with the National Association of Securities, Dealers Conduct Rules (1735 K Street, N.W., Washington DC 2006) (Adopted by SR-NASD-95-39, effective August 20, 1996, no later editions or amendments are included) pertaining to suitability shall satisfy, the requirements under this Section for the recommendation of variable life insurance policies. However, nothing in this Section shall limit the Director's ability to enforce the provisions of this Part.

(Source: Added at 31 Ill. Reg. 12740, effective January 1, 2008)

Section 3117.210 Noncompliance

Violation of the requirements of this Part shall be an unfair trade practice and evidence of incompetence or untrustworthiness in the conduct of business under Section 500-70(a)(7) and (8) of the Code.

(Source: Added at 31 Ill. Reg. 12740, effective January 1, 2008)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Suitability in Annuity Transactions

2) Code Citation: 50 Ill. Adm. Code 3120

3)

Section Numbers:	Adopted Action:
3120.10	New Section
3120.20	New Section
3120.30	New Section
3120.40	New Section
3120.50	New Section
3120.60	New Section
3120.70	New Section
3120.80	New Section

4) Statutory Authority: Implementing and authorized by Article XXXI of the Illinois Insurance Code [215 ILCS 5/Art. XXXI] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]

5) Effective Date of Rulemaking: January 1, 2008

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 rulemaking, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 3241; March 2, 2007

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: None

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

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

15) Summary and Purpose of Rulemaking: This new Part adopts the NAIC Model Regulation for Suitability in Annuity Transactions. The regulations contain various suitability standards, exemptions, recordkeeping requirements, and provisions for noncompliance.

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

Kelly Kruger, Assistant Deputy Director, Producer Division
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

217/785-2263

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE REPRESENTATIVES AND REGISTERED FIRMS

PART 3120
SUITABILITY IN ANNUITY TRANSACTIONS

3120.10 Purpose
3120.20 Scope
3120.30 Exemptions
3120.40 Definitions
3120.50 Duties of Insurers and Insurance Producers
3120.60 Mitigation of Responsibility
3120.70 Recordkeeping
3120.80 Noncompliance

AUTHORITY: Implementing and authorized by Article XXXI of the Illinois Insurance Code [215 ILCS 5/Art. XXXI] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 31 Ill. Reg. 12747, effective January 1, 2008.

Section 3120.10 Purpose

a) The purpose of this Part is to set forth standards and procedures for recommendations by insurers or insurance producers to consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

b) Nothing in this Part shall be construed to create or imply a private cause of action for a violation of this Part.

Section 3120.20 Scope

This Part shall apply to any recommendation to purchase or exchange an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

Section 3120.30 Exemptions

Unless otherwise specifically included, this Part shall not apply to recommendations involving:

a) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this Part.

b) Contracts used to fund:

1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

2) A plan described by sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC) (26 USCS 401 et seq.), as amended, if established or maintained by an employer;

3) A government or church plan defined in section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under section 457 of the IRC;

4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

5) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

6) Formal prepaid funeral contracts.

Section 3120.40 Definitions

Annuity means a fixed or variable annuity that is individually solicited, whether the product is classified as an individual or group annuity.

Code means the Illinois Insurance Code [215 ILCS 5].

Department means the Department of Financial and Professional Regulation.

Director means the Director of the Illinois Department of Financial and Professional Regulation-Division of Insurance.

Division means the Illinois Department of Financial and Professional Regulation-Division of Insurance.

Insurance Producer means a person required to be licensed under the laws of this State to sell, solicit, or negotiate insurance.

Insurer means a company required to be licensed under the laws of this State to provide insurance products, including annuities.

Recommendation means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase or exchange of an annuity in accordance with that advice.

Section 3120.50 Duties of Insurers and Insurance Producers

a) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs.

b) Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain information concerning:

1) The consumer's financial status;

2) The consumer's tax status;

3) The consumer's investment objectives; and

4) Such other information used or considered to be reasonable by the insurance producer, or the insurer where no producer is involved, in making recommendations to the consumer.

c) Recommendation to Consumer

1) Except as provided under subsection (c)(2), neither an insurance producer, nor an insurer where no producer is involved, shall have any obligation to a consumer under subsection (a) related to any recommendation if a consumer:

A) Refuses to provide relevant information requested by the insurer or insurance producer;

B) Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer; or

C) Fails to provide complete or accurate information.

2) An insurer or insurance producer's recommendation subject to subsection (c)(1) shall be reasonable under all the circumstances actually known to the insurer or insurance producer at the time of the recommendation.

d) Supervision of Recommendations

1) An insurer either shall assure that a system to supervise recommendations that is reasonably designed to achieve compliance with this Part is established and maintained by complying with subsections (d)(3) through (5) or shall establish and maintain such a system, including, but not limited to:

A) Maintaining written procedures; and

B) Conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this Part.

2) A managing general agent, as defined in Section 141a of the Code, either shall adopt a system established by an insurer to supervise recommendations of its insurance producers that is reasonably designed to achieve compliance with this Part or shall establish and maintain such a system, including, but not limited to:

A) Maintaining written procedures; and

B) Conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this Part.

3) An insurer may contract with a third party, including a managing general agent, to establish and maintain a system of supervision as required by subsection (d)(1) with respect to insurance producers under contract with or employed by the third party.

4) An insurer shall make reasonable inquiry to assure that the third party, including a managing general agent, contracting under subsection (d)(3) is performing the functions required under subsection (d)(1) and shall take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:

A) The insurer annually obtains a certification from a third party, including a managing general agent or other person who has responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions; and

B) The insurer, based on reasonable selection criteria, periodically selects third parties contracting under subsection (d)(3) for a review to determine whether the third parties are performing the required functions. In conducting the review, the insurer shall perform those procedures that are reasonable under the circumstances.

5) An insurer that contracts with a third party, including a managing general agent, pursuant to subsection (d)(3) and that complies with the requirements to supervise in subsection (d)(4) shall have fulfilled its responsibilities under subsection (d)(1).

6) An insurer or managing general agent, is not required by subsection (d)(1) or (2) to:

A) Review, or provide for review of, all insurance producer solicited transactions; or

B) Include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer or managing general agent.

7) A managing general agent contracting with an insurer pursuant to subsection (d)(3) shall promptly, when requested by the insurer pursuant to subsection (d)(4), give a certification as described in subsection (d)(4) or give a clear statement that it is unable to meet the certification criteria.

8) No person may provide a certification under subsection (d)(4)(A) unless:

A) The person is a senior manager with responsibility for the delegated functions; and

B) The person has a reasonable basis for making the certification.

e) Compliance with the National Association of Securities Dealers Conduct Rules (1735 K Street, N.W., Washington, D.C. 20006) (adopted by SR-NASD-95-39, eff. Aug. 20, 1996, no later editions or amendments are included) pertaining to suitability shall satisfy the requirements of this Section for the recommendation of variable annuities. However, nothing in this subsection shall limit the Director's ability to enforce the provisions of this Part.

Section 3120.60 Mitigation of Responsibility

In addition to any other action authorized by the Code, the Director may order:

a) An insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's, or by its insurance producer's, violation of this Part;

b) An insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this Part; and

c) A managing general agent that employs or contracts with an insurance producer to sell or solicit the sale of annuities to consumers shall take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this Part.

Section 3120.70 Recordkeeping

a) Insurers, managing general agents and insurance producers shall maintain and be able to make available to the Director records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 7 years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

b) Records required to be maintained by this Part may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media, or by any process that accurately reproduces the original document.

Section 3120.80 Noncompliance

Violation of the requirements of this Part shall be an unfair trade practice and evidence of incompetence or untrustworthiness in the conduct of business under Section 500-70(a)(7) and (8) of the Code.

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1) Heading of the Part: Medical Assistance Programs

2) Code Citation: 89 Ill. Adm. Code 120

3) Section Number: 120.540 — Adopted Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendment: August 27, 2007

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

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 7226; May 18, 2007

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences Between Proposal and Final Version: A nonsubstantive change was made in subsection (c).

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this amendment replace any emergency amendments currently in effect? Yes

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

15) Summary and Purpose of Amendment: This rulemaking, as provided in the federal waiver, allows HFS to expand eligibility for family planning and related reproductive healthcare to women who apply for the benefit rather than restricting eligibility to women losing eligibility for regular medical benefits. Eligible women are 19 to 44 years of age, have a family income below 200 percent of poverty and are not otherwise eligible for other healthcare programs offered by HFS. Under this expansion, the Department

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estimates approximately 45,000 more women, per year will enroll in Illinois Healthy Women.

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

Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120
MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section
120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

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

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

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

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Licensed Community – Integrated Living Arrangements

SUBPART D: MEDICARE PREMIUMS

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

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section
120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

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

SUBPART G: AID TO THE MEDICALLY INDIGENT

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

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

SUBPART H: MEDICAL ASSISTANCE – NO GRANT

Section
120.308 Client Cooperation
120.309 Caretaker Relative
120.310 Citizenship
120.311 Residence
120.312 Age
120.313 Blind
120.314 Disabled
120.315 Relationship
120.316 Living Arrangements
120.317 Supplemental Payments
120.318 Institutional Status

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120.319	Assignment of Rights to Medical Support and Collection of Payment
120.320	Cooperation in Establishing Paternity and Obtaining Medical Support
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120.324	Health Insurance Premium Payment (HIPP) Program
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120.326	Foster Care Program
120.327	Social Security Numbers
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120.332	Budgeting Unearned Income
120.335	Exempt Unearned Income
120.336	Education Benefits
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120.363	Earned Income Disregard – MANG(C)
120.364	Earned Income Exemption
120.366	Exclusion From Earned Income Exemption
120.370	Recognized Employment Expenses
120.371	Income From Work/Study/Training Programs
120.372	Earned Income From Self-Employment
120.373	Earned Income From Roomer and Boarder
120.375	Earned Income In-Kind
120.376	Payments from the Illinois Department of Children and Family Services
120.379	Provisions for the Prevention of Spousal Impoverishment
120.380	Assets
120.381	Exempt Assets

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120.382 Asset Disregard
120.383 Deferral of Consideration of Assets
120.384 Spend-down of Assets (AABD MANG)
120.385 Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)
120.386 Property Transfers Occurring On or Before August 10, 1993
120.387 Property Transfers Occurring On or After August 11, 1993
120.390 Persons Who May Be Included In the Assistance Unit
120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later
120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
120.395 Payment Levels for MANG (Repealed)
120.399 Redetermination of Eligibility
120.400 Twelve Month Eligibility for Persons under Age 19

SUBPART I: SPECIAL PROGRAMS

Section
120.500 Health Benefits for Persons with Breast or Cervical Cancer
120.510 Health Benefits for Workers with Disabilities
120.520 SeniorCare (Repealed)
120.530 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
120.540 Illinois Healthy Women Program
120.550 Asylum Applicants and Torture Victims

120.TABLE A Value of a Life Estate and Remainder Interest
120.TABLE B Life Expectancy

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

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory

amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, l983; amended at 7 Ill. Reg. 8264, effective July 5, l983; amended (by adding

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Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838,

effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409,

effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007.

SUBPART I: SPECIAL PROGRAMS

Section 120.540 Illinois Healthy Women Program

a) A woman shall be eligible for medical services under this program if the woman:

1) Meets required citizenship/immigration status as described in Section 120.310;

2) Meets residency requirements as described in Section 120.311;

3) Does not reside in a public institution as described in Section 120.318;

4) Furnishes a Social Security Number as described in Section 120.327;

5) Is 19 through 44 years of age;

6) Has monthly countable income equal to or less than 200 percent of the federal poverty level guideline.

A) Monthly countable income is determined by taking the total gross monthly income of the woman, and her spouse if she is married and living with her spouse, and subtracting allowable deductions and exemptions according to the provisions of Subpart H, except that sections 120.335(a), 120.345(b), 120.355(a), 120.360(d), 120.362(a) and (b), 120.364, 120.366, 120.370(a), 120.371(c), 120.373(a) and 120.379 shall not apply.

B) The number of individuals in the family determines the applicable income standard.

b) A woman meeting the criteria described under subsection (a) of this Section will be automatically enrolled in the program if she lost eligibility for medical assistance under this Part or health benefits under 89 Ill. Adm. Code 125 for a reason other than failing to meet one of the criteria listed in subsection (a) of this Section.

c) Women who are not enrolled automatically under subsection (b) of this Section may apply for the program by submitting an Illinois Healthy Women application to an address specified by the Department or alternative methods that the Department establishes.

1) The application must meet all requirements found at 89 Ill. Adm. Code 110.10, including provisions regarding who may apply on behalf of the woman.

2) Applicants are obligated to provide truthful and accurate information for determining eligibility and to report promptly to the Department any change in non-financial information provided on the application.

3) Applicants will be notified, in writing, regarding the outcome of the determination of their eligibility.

d) Initial coverage will begin as follows:

1) For women enrolled under subsection (b) of this Section, initial coverage will automatically commence beginning on the first day of the month following the last month of medical assistance or health benefits coverage and will continue for three months. If, in the prescribed timeframe of three months for initial coverage, the woman signs and returns the enrollment form that is mailed to her by the Department, eligibility will continue for an additional nine months beginning on the first day of the month that follows the third month of initial coverage.

2) For women enrolled under subsection (c) of this Section, upon determination of eligibility, initial coverage will commence on the first day of the month in which the application was received by the Department and will continue for 12 months.

e) Eligibility must be redetermined once every 12 months.

1) If the woman continues to meet the requirements set forth in subsection (a), the woman will remain eligible for an additional 12 months if, within the prescribed timeframe, she signs and returns the re-enrollment form that is mailed to her.

2) If the woman does not continue to meet the requirements set forth in subsection (a) or if she does not sign and return the re-enrollment form, her eligibility for the program will be terminated.

3) Each woman will be notified, in writing, regarding the outcome of her re-determination of eligibility.

~~6) Did not lose medical assistance without spend-down coverage for refusing to assign rights to medical support and collection of payment, as described in Section 120.319, while receiving medical benefits;~~

~~7) Did not lose medical assistance without spend-down coverage for refusing to cooperate in establishing paternity and obtaining medical support rights, as described in Section 120.320, while receiving medical benefits, unless the woman had good cause as described in Section 120.321; and~~

~~8) Lost eligibility for medical assistance without a spend-down or a KidCare Health Plan under 89 Ill. Adm. Code 125 for a reason other than as described in subsections (a)(1) through (7) of this Section.~~

~~b) Initial coverage will occur automatically beginning on the first day of the month following the last month of Medicaid without spend-down coverage and will continue for three months.~~

~~c) If, in the prescribed timeframe of three months for initial coverage, the woman signs and returns the enrollment form that is mailed to her by the Department, eligibility will continue for an additional nine months beginning on the first day of the month that follows the third month of initial coverage.~~

~~d) Eligibility must be redetermined once every 12 months. If the woman continues to meet the requirements set forth in subsections (a)(1) through (5) of this Section and her total countable family income is at or below 200 percent of the Federal Poverty Level, the woman will remain eligible for an additional 12 months if, within the prescribed timeframe, she signs and returns the re-enrollment form that is mailed to her.~~

f)~~e)~~ A re-enrollment form will not be mailed to the woman if, after coverage under this program began:

1) She reached the age of 45 years;

2) She moved out of Illinois;

3) She became eligible for another medical program under this Part or 89 Ill. Adm. Code 125;

4) She became an inmate of a correctional facility or a resident of a public institution;

5) She requested that benefits be terminated; or

6) The Department paid for a sterilization procedure for her.

g)~~f)~~ Coverage for all participants shall end upon termination of the federal waiver under which this coverage is provided.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

h)~~g)~~ Benefits available under this program are those set forth in 89 Ill. Adm. Code 140.486.

(Source: Amended at 31 Ill. Reg. 12756, effective August 27, 2007)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Child Support Enforcement

2) Code Citation: 89 Ill. Adm. Code 160

3)

Section Numbers:	Adopted Action:
160.10	Amendment
160.15	Amendment
160.60	Amendment
160.61	Amendment
160.64	New Section
160.70	Amendment
160.75	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: August 27, 2007

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

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 4550; March 23, 2007

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences Between Proposal and Final Version: In Section 160.15(b), changed "the federal Deficit Reduction Act of 2005 (P.L. 109-171)" to "42 USC 654".

In Sections 160.60(a)(2) and 160.61(a)(3), in the definition of "Service" or "Served", changed to read: "'Service' or 'Served' means notice given:

A) by personal service, certified mail (with or without return receipt requested) or, restricted delivery,

B) by person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004 [225 ILCS

447] or by a registered employee of a private detective agency certified under that Act, or

C) in counties with a population of less than 2,000,000 [305 ILCS 5/10-4] by any method provided by law for services of summons. (See Sections 2-202, 2-203, and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-202, 2-203 and 2-206].)".

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: The amendments give the Department authority to provide notice to parties of a judicial action that child support is being provided by HFS, add "private process servers" to the "Service" definition, make changes to the "Child Needs" definition to more reflect the average salary of the customers we serve, and delete the requirement that SSNs of the obligee and child or children be on the Income Withholding Notice.

Retroactive support is defined as support for a period of time prior to the date the court or administrative body (the Department) enters or files a support order. The amendments stipulate when retroactive support may be credited as support payments or when to waive the necessity to collect retroactive support.

In addition, amendments clarify that the Illinois Department of Revenue is the appropriate agency to intercept State tax refunds and that the Office of the Comptroller is the appropriate entity to intercept other State payments to pay off delinquent child support debt.

Due to changes in the federal Deficit Reduction Act of 2005(P.L. 109-171), a federal collection fee of $25 for all IV-D non-TANF cases where at least $500 has been collected by the IV-D agency is implemented. Additional changes lower the threshold dollar amount for passport denial from $5,000 to $2,500.

Under Public Act 94-923 and PA-1061, amendments give the court the authority to decline ordering an obligor to reimburse the obligee 50 percent of the health insurance

premium, when deemed inappropriate to do so. Amendments set forth guidelines to ensure that $10 minimum orders associated with parentage cases are not in violation of the requirement that child support guidelines can be rebutted and ensure all IV-D cases are being handled according to federal regulations.

Under Public Act 94-971, the rulemaking also gives the Department authority to compromise child support debt owed by low-income non-custodial parents to the State in exchange for payment of child support to the family and sets forth criteria to establish procedures.

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

Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER f: COLLECTIONS

PART 160
CHILD SUPPORT ENFORCEMENT

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SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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160.70 Enforcement of Support Orders
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160.95 State Disbursement Unit
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SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section
160.140 Statement of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

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

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

effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000; emergency amendment at 26 Ill. Reg. 11092, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17822, effective November 27, 2002; amended at 27 Ill. Reg. 4732, effective February 25, 2003; amended at 27 Ill. Reg. 7842, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 12139, effective July 11, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18891, effective November 26, 2003; amended at 28 Ill. Reg. 4712, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 10225, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15591, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 2743, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10211, effective June 30, 2005; amended at 29 Ill. Reg. 14995, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 5426, effective March 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 8897, effective May 1, 2006; amended at 30 Ill. Reg. 13393, effective July 28, 2006; amended at 31 Ill. Reg. 12771, effective August 27, 2007.

SUBPART A: GENERAL PROVISIONS

Section 160.10 Child Support Enforcement Program

a) Under Title IV-D of the Social Security Act (42 USC 651 et seq.) the Department undertakes to establish, modify, enforce and collect child and spouse support obligations from responsible relatives as defined in 89 Ill. Adm. Code 103.10. "IV-D cases" consist of:

1) children receiving Temporary Assistance for Needy Families (TANF);

2) children receiving AFDC MANG;

3) children receiving foster care maintenance payments under Title IV-E of the Social Security Act (42 USC 670 et seq.);

4) children of applicants for TANF, where the caretaker or specified relative is the putative father or relative of the putative father;

5) children of applicants for TANF, where the mother and putative father of the children born out of wedlock are living together;

6) children of applicants for TANF, where the caretaker relative is reapplying for cash or medical assistance and was in sanctioned status for noncooperation at the time the case was previously canceled;

7) a spouse or former spouse when the former spouse/spouse lives with the child;

8) former AFDC and TANF recipients following AFDC and TANF cancellation pursuant to subsection (g) of this Section;

9) persons not receiving TANF, AFDC MANG, or Foster Care Services under Title IV-E upon application to the Department for such services;

10) persons receiving AFDC MANG that previously received AFDC or TANF cash assistance;

11) persons similarly situated to subsections (a)(1) through (10) ~~above~~ and receiving Title IV-D support services in other states; and

12) persons similarly situated to those described in subsections (a)(1) through (10) ~~above~~ and receiving support services in other countries or subdivisions thereof that ~~which~~ have been declared to be foreign reciprocating countries by the Secretary of State under Section 459A of the Social Security Act (42 USC 659A).

b) Title IV-D is implemented by the Department through its Division of Child Support Enforcement.

c) The Division of Child Support Enforcement has sole responsibility for:

1) identifying and locating the absent parent;

2) establishing the parentage of a child born out of wedlock;

3) establishing support obligations;

4) enforcing and collecting support;

5) receiving and distributing support payments;

6) maintaining accurate records of location and support activities; and

7) advising the local office of circumstances which may affect the family's eligibility for TANF or AFDC MANG (for example, the father is living in the home, or a child no longer lives in the home, etc.).

d) For Title IV-D children, the Department determines financial ability and establishes the support obligation of the absent parent through order of the court or through administrative process in accordance with Section 160.60.

e) The Department shall explain to each TANF applicant or recipient his or her responsibility to cooperate with the Department in obtaining support from absent parents and enforcing support obligations and the consequence of non-cooperation~~noncooperation~~.

f) Whenever a family ceases to receive TANF cash assistance, IV-E foster care or medical assistance, the Department shall notify the family that Title IV-D services will be continued unless the family advises the Department that it does not wish to receive Title IV-D services. Additionally, the notice shall advise that no application or application fee is required. Finally, the notice shall also include a description of the Title IV-D services available from the Department and information on the Department's cost recovery (for example, filing fees) and distribution policies (see 45 CFR 302.33(a) and (d) and 303.7(d)(4) and (5) (2003)).

g) Whenever a family ceases to receive AFDC MANG assistance:

1) if the family previously received TANF cash assistance, IV-D services shall be continued without the filing of a new application as explained in subsection (f) of this Section; or

2) if the family did not previously receive TANF cash assistance, IV-D services shall be continued without the filing of a new application as explained in subsection (f) of this Section.

h) Whenever in the course of an administrative proceeding, as provided for under the Public Aid Code [305 ILCS 5/10] and in accordance with this Part, it appears that the non-custodial parent is in the military service and the Servicemembers Civil Relief Act (SCRA) (50 App. USC 501-596) requires the appointment of counsel, the Department shall have the authority to appoint counsel for the service member non-custodial parent. The appointed attorney will perform the duties required

under the SCRA that include locating members, advising them of proceedings and requesting stays if the members' military duties materially affect their ability to participate in cases.

i) The Department may provide notice at any time to the parties to a judicial action that child support enforcement services are being provided by HFS under Article X of the Public Aid Code. The notice shall be sent by regular mail to the party's last known address on file with the Clerk of the Court or the State Case Registry. After notice has been provided, HFS shall be entitled to notice of any further proceedings brought in the case. HFS will provide the clerk of the court with copies of the notices sent to the parties to file with the court file.

(Source: Amended at 31 Ill. Reg. 12771, effective August 27, 2007)

Section 160.15 Fees~~Application Fee~~ for IV-D Non-TANF Cases

a) In IV-D non-TANF cases where an application for child support services is required, the Department shall charge an application fee of one cent for each applicant and pay the fee out of State funds.

b) In accordance 42 USC 654 and the Illinois Public Aid Code, an annual $25 collection fee shall be imposed for all IV-D non-TANF cases where at least $500 has been collected by the IV-D agency.

(Source: Amended at 31 Ill. Reg. 12771, effective August 27, 2007)

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section 160.60 Establishment of Support Obligations

a) Definitions

1) "FSS" means any Family Support Specialist performing assigned duties, his supervisory staff and any other person assigned responsibility by the Director of the Department.

2) "Service" or "Served" means notice given:

A) by personal service, certified mail (with or without return receipt requested) or~~,~~ restricted delivery~~, return receipt requested~~,

B) *by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004* [225 ILCS 447] *or by a registered employee of a private detective agency certified under that Act*, or

C) *in counties with a population of less than 2,000,000* [305 ILCS 5/10-4], by any method provided by law for service of summons. (See Sections 2-202, 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-202, 2-203 and 2-206].)

3) "Support Statutes" means the following:

A) Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X];

B) The Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5];

C) The Non-Support Punishment Act [750 ILCS 16];

D) The Uniform Interstate Family Support Act [750 ILCS 22];

E) The Illinois Parentage Act of 1984 [750 ILCS 45]; and

F) Any other statute in another state that~~which~~ provides for child support.

4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered.

5) "Child's needs" means~~ the cost of raising a child as detailed by either~~:

A) the custodial parent's statement of the associated costs, including, but not limited to, providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care; or

B) the State's current minimum hourly wage multiplied by 40 hours per work week, multiplied by 4.3 weeks per month, multiplied by the applicable child support guideline percentage contained in subsection (c)(1) of this Section. ~~the Department's standard for the costs of raising a child as calculated by averaging the estimated annual expenditures on a child by husband-wife families for all income levels as reported in Table 1 "Estimated annual expenditures on a child by husband-wife families, overall United States" of the USDA Expenditures on Children and Families Annual Report (United States Center for Nutrition Policy and Promotion, 3101 Park Center Drive, Room 1034, Alexandria, Virginia 22302) (May 2003). This standard takes into account average actual costs of providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care in a manner consistent with health and well being as set forth in this Part.~~

~~C) The formula used to calculate the Department's monthly Standard of Need is: Total Average Expenditures, divided by the number of people in the household, divided by the number of years from birth until the age of majority (18 years of age in Illinois), divided by two (obligation for one parent) equals the monthly support obligation.~~

b) Responsible Relative Contact

1) Timing and Purpose of Contact

A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.

B) The purpose of contact and interview shall be to obtain relevant facts, including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.

2) At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:

A) the Title IV-D case name and identification number;

B) the names and birthdates of the persons for whom support is sought or other information identifying such persons, such as a prior court number;

C) that the responsible relative has a legal obligation to support the named persons;

D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and

E) that the responsible relative should bring specified information regarding his income and resources to the interview.

3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.

c) Determination of Financial Ability

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

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

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

following deductions:

i) Federal income tax (properly calculated withholding or estimated payments);

ii) State income tax (properly calculated withholding or estimated payments);

iii) Social Security (FICA payments);

iv) Mandatory retirement contributions required by law or as a condition of employment;

v) Union dues;

vi) Dependent and individual health/hospitalization insurance premiums;

vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;

viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;

ix) Medical expenditures necessary to preserve life or health; and

x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.

B) The deductions in subsections (c)(1)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that~~which~~ contain provisions for an automatic increase in the support obligation upon termination of such payment period.

2) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall

determine the minimum amount of child support as follows:

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

A) "Net Income" is the total of all income from all sources, minus the following deductions:

i) Federal income tax (properly calculated withholding or estimated payments);

ii) State income tax (properly calculated withholding or estimated payments);

iii) Social Security (FICA payments);

iv) Mandatory retirement contributions required by law or as a condition of employment;

v) Union dues;

vi) Dependent and individual health/hospitalization insurance premiums;

vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;

viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;

ix) Medical expenditures necessary to preserve life or health; and

x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.

B) The deductions in subsections (c)(2)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.

C) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:

i) the financial resources and needs of the child;

ii) the financial resources and needs of the custodial parent;

iii) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;

iv) the physical and emotional condition of the child, and his educational needs; and

v) the financial resources and needs of the non-custodial parent.

D) Each order requiring support that deviates from the guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.

3) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the amount of child support due in accord with Section 505 and medical support in accordance with Section 505.2 of the Illinois Marriage and

Dissolution of Marriage Act [750 ILCS 5/505].

4) All orders for support shall include a provision for the health care coverage of the child. In all cases where health insurance coverage is not being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter, support~~,~~ orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost or indicating what alternative arrangement for health insurance coverage is being provided. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.

~~5) When proceeding under subsection (d) of this Section, the Department shall, in any event, notwithstanding other provisions of this subsection (c) and regardless of the amount of the responsible relative's net income, order the responsible relative to pay child support of at least $10.00 per month.~~

5~~6~~) In cases where the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's needs as defined by subsection (a)(5)(A) or (B) of this Section.

6~~7~~) The final order in all cases shall state the support level in dollar amounts.

7~~8~~) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving cash assistance in Illinois, the Department, when proceeding under subsection (d) of this Section, shall order, or, when proceeding under subsection (e) of this Section, shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives. In TANF cases, the Department shall order, when proceeding under subsection (d) of this Section, or, when proceeding under subsection (e) of this Section, shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the responsible relative participate in job search, training and work programs established under Section 9-6 and

Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].

8~~9~~) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the responsible relative to notify the Department, within seven days:

A) of any new address of the responsible relative;

B) of the name and address of any new employer or source of income of the responsible relative;

C) of any change in the responsible relative's Social Security Number;

D) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and

E) if so, the policy name and number and the names of persons covered under the policy.

9~~10~~) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.

10~~11~~) The Department shall enter administrative support orders, or request the court to enter support orders, that include a statement that if there is an unpaid arrearage or delinquency equal to at least one month's support obligation on the termination date stated in the order for support or, if there is no termination date stated in the order, on the date the child attains the age of majority or is otherwise emancipated, then the periodic amount required to be paid for current support of that child immediately prior to that date shall automatically continue to be an obligation, not as current support but as periodic payment toward satisfaction of the unpaid arrearage or delinquency.

11~~12~~) The Department shall enter administrative support orders, or request the court to enter support orders, that include provisions for retroactive support when appropriate.

A) In cases handled under subsection (d) of this Section, the Department shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties' separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock) unless, in cases where the IV-D client has never received public assistance during the retroactive time period, the IV-D client waives, by notarized statement, all support during the retroactive support period.

B) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock), unless, in cases where the child was born out of wedlock, the hearing officer, after having examined the factors set forth in Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505] decides that another date is more appropriate.

C) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the date retroactive support is to commence in accord with Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X], Sections 510 and 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510 and 505], and Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14].

d) Administrative Process

1) Use of Administrative Process

A) Unless otherwise directed by the Department, the FSS shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:

i) presumed paternity as set forth in Section 5 of the Illinois Parentage Act of 1984 [750 ILCS 45/5] and support is sought from one or both parents;

ii) alleged paternity and support is sought from the mother;

iii) an administrative paternity order entered under Section 160.61 and support is sought from the man determined to be the child's father, or from the mother, or both;

iv) an establishment of parentage in accordance with Section 6 of the Illinois Parentage Act of 1984 [750 ILCS 45/6]; and

v) an establishment of parentage under the laws of another state, and support is sought from the child's father, or from the mother, or both.

B) In addition to those items specified in subsection (b)(2) of this Section, the notice of support obligation shall inform the responsible relative of the following:

i) that the responsible relative may be required to pay retroactive support as well as current support; and

ii) that in its initial determination of child support under subsection (c) of this Section, the Department will only consider factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and

iii) that the Department will enter an administrative support order based only on those factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and

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

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

vi) that unless the client and/or the responsible relative requests a de novo hearing within 30 days after the order's mailing or delivery, the administrative support order will become a final enforceable order of the Department; and

vii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.

2) The FSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) of this Section when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein. The FSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the

relative's current net income (unless the relative provides necessary information to determine net income for the prior period) to the support guidelines in accordance with subsection (c) of this Section. The FSS shall reduce the total amount of retroactive support determined by the amount of cash contributions made by the responsible relative to the IV-D client for the benefit of the child during the retroactive period as specified in the IV-D client's affidavit of direct contribution. In no event shall credit be given in excess of the total amount of the retroactive support determined.

3) Failure to Appear

A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the FSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(D) of this Section. The terms of the order shall be based upon the needs of the child for whom support is sought, as defined by subsection (a)(5) of this Section. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by law with a notice of support obligation.

B) The FSS may issue a subpoena to a responsible relative who fails to appear for interview, or who appears and furnishes income information, when the FSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:

i) financial ability, as determined from the guidelines contained in subsection (c) of this Section, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) of this Section; or

ii) income exceeds that reported by the relative.

C) The FSS will not issue a subpoena under subsection (d)(3)(B) of this Section where the information from the Title IV-D client, the responsible relative's employer or other source concerning the

relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.

D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him pursuant to subsection (d)(3)(B) of this Section, the FSS may enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A) of this Section, and may then, after investigation and determination of the responsible relative's financial ability to support, utilizing existing State and federal sources (for example, Illinois Department of Employment Security), client statements, employer statements, or the use of the Department's subpoena powers, enter a support order in accord with subsection (c)(1) of this Section.

4) The Department shall register, enforce or modify an order entered by a court or administrative body of another state, and make determinations of controlling order where appropriate, in accordance with the provisions of the Uniform Interstate Family Support Act [750 ILCS 22].

5) An administrative support order shall include the following:

A) the Title IV-D case name and identification number;

B) the names and birthdates of the persons for whom support is ordered;

C) the beginning date, amount and frequency of support;

D) any provision for health insurance coverage ordered under subsection (c)(4) of this Section;

E) the total retroactive support obligation and the beginning date, amount (which shall not be less than 20 percent of the current support amount) and frequency of payments to be made until the retroactive support obligation is paid in full or the statement that the IV-D client has signed a statement waiving all rights to retroactive support;

F) the amount of any arrearage that has accrued under a prior support order and the beginning date, amount (which shall not be less than 20 percent of the support order) and frequency of payments to be made until the arrearage is paid in full;

G) a provision requiring that support payments be made to the State Disbursement Unit;

H) a statement informing the client and the responsible relative that they have 30 days from the date of mailing of the administrative support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102 and subsection (c)(2) of this Section, except that for orders entered as a result of a decision after a de novo hearing, the statement shall inform the client and the responsible relative that the order is a final administrative decision of the Department and that review is available only in accord with provisions of the Administrative Review Law [735 ILCS 5/Art III];

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

J) in each administrative support order entered or modified on or after January 1, 2002, a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid for 30 days or more shall accrue simple interest at the rate of nine percent per annum.

6) Every administrative support order entered on or after July 1, 1997, shall

include income withholding provisions based upon and containing the same information as prescribed in Section 160.75. The Department shall also prepare and serve income withholding notices after entry of an administrative support order and effect income withholding in the same manner as prescribed in Section 160.75.

7) The Department shall provide to each client and each responsible relative a copy of each administrative support order entered, no later than 14 days after entry of such order, by:

A) delivery at the conclusion of an interview where financial ability to support was determined. An acknowledgment of receipt signed by the client or relative or a written statement identifying the place, date and method of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person.

B) regular mail to the party not receiving personal delivery where the relative fails or refuses to accept delivery, where either party does not attend the interview, or the orders are entered by default.

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

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

e) Judicial Process

1) The Department shall refer Title IV-D cases for court action to establish

support obligations of responsible relatives, pursuant to the support statutes (see subsection (a)(3) of this Section) in matters requiring the determination of parentage (except when paternity is to be determined administratively under Section 160.61), when the court has acquired jurisdiction previously and in instances described in subsection (d)(3)(D) of this Section, and as otherwise determined by the Department.

2) The Department shall prepare and transmit pleadings and obtain or affix appropriate signature thereto, which pleadings shall include, but not be limited to, petitions to:

A) intervene;

B) modify;

C) change payment path;

D) establish an order for support;

E) establish retroactive support;

F) establish past-due support;

G) establish parentage;

H) obtain a rule to show cause;

I) enforce judicial and administrative support orders; and

J) combinations of the above.

3) Department legal representatives shall request that judicial orders for support require payments to be made to the State Disbursement Unit in accordance with Section 10-10.4 of the Illinois Public Aid Code [305 ILCS 5/10-10.4], Section 507.1 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/507.1], Section 320 of the Uniform Interstate Family Support Act [750 ILCS 22/320], Section 21.1 of the Illinois Parentage Act of 1984 [750 ILCS 45/21.1] and Section 25 of the Non-Support Punishment Act [750 ILCS 16/25].

f) Petitions for Release from Administrative Support Orders – Extraordinary Remedies

1) Notwithstanding the statements required by subsections (d)(5)(H) and (d)(5)(I) of this Section, more than 30 days after the entry of an administrative support order under subsection (d) of this Section, a party aggrieved by entry of an administrative support order may petition the Department for release from the order on the same grounds as are provided for relief from judgments under Section 2-1401 of the Code of Civil Procedure.

2) Petitions under this subsection (f) must:

A) cite a meritorious defense to entry of the order;

B) cite the exercise of due diligence in presenting that defense to the Department;

C) be filed no later than two years following the entry of the administrative support order, except that times listed below shall be excluded in computing the two years:

i) time during which the person seeking relief is under legal disability;

ii) time during which the person seeking relief is under duress;

iii) time during which the ground for relief is concealed from the person seeking relief;

D) be supported by affidavit or other appropriate showing as to matters not supported by the record.

3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent, caretaker or responsible relative by certified mail, return receipt requested, or by any manner provided by law for service of process. The filing of a petition under this subsection (f) does not affect the validity of the administrative support order.

(Source: Amended at 31 Ill. Reg. 12771, effective August 27, 2007)

Section 160.61 Uncontested and Contested Administrative Paternity and Support Establishment

a) Definitions

1) "Combined paternity index" means a statistic, stated as an odds ratio in a report of genetic testing results, giving the likelihood that the man having undergone the testing is the father of the child relative to the chance that the father is another (unrelated random) man from the same racial background.

2) "Genetic testing" means deoxyribonucleic acid (DNA) tests.

3) "Service" or "Served" means notice given:

A) by personal service, certified mail (with or without return receipt requested) or~~,~~ restricted delivery~~, return receipt requested~~,

B) *by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004* [225 ILCS 447] *or by a registered employee of a private detective agency certified under that Act*, or

C) *in counties with a population of less than 2,000,000* [305 ILCS 5/10-4], by any method provided by law for service of a summons. (See Sections 2-202, 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-202, 2-203 and 2-206].)

4) "Non-marital child", as used in this Section and Section 160.62, means a child born out of wedlock for whom paternity has not been established.

5) "Alleged father", as used in this Section and Section 160.62, means a man alleged to be the father of a non-marital child.

6) "Presumed father" shall have the meaning ascribed to that term in the Illinois Parentage Act of 1984 [750 ILCS 45].

b) Uncontested Administrative Paternity Process

1) Except as otherwise determined, the Department shall establish a man's paternity of a child through the administrative process set forth in this Section, in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:

A) a non-marital child and support is sought from the alleged father;

B) a non-marital child who is in the physical custody of the alleged father or a caretaker relative other than the child's mother, and support is sought from the alleged father or from the mother, or both; or

C) presumed paternity as set forth in Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)] in which a man other than the presumed father has been alleged to be the child's father, and notice has been provided to the alleged and presumed fathers as set forth in this Section.

2) Contact with Responsible Relatives

A) Following the IV-D client interview, the Department shall contact and interview:

i) alleged fathers to establish paternity and support obligations; and

ii) mothers to establish an alleged father's paternity of a child (where the alleged father or a caretaker relative other than the mother has physical custody of the child) and to establish the support obligation of the alleged father, the mother, or both.

B) The purpose of contact and interview shall be to obtain relevant facts, including information concerning the child's paternity and responsible relative income information (for example, paycheck stubs, income tax returns) necessary to establish the child's

paternity and to determine the responsible relative's financial ability for use in establishing child support obligations.

3) At least ten working days in advance of the interview, the Department shall serve upon or provide to the alleged father from whom child support is sought, by ordinary mail, a notice of alleged paternity and support obligation, which notice shall contain the following:

A) the Title IV-D case name and identification number;

B) the name and birthdate of the non-marital child;

C) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child;

D) the date, time, place and purpose of the interview and that the alleged father may be represented by counsel;

E) that the alleged father should bring specified information regarding his income and resources to the interview;

F) that upon failure of the alleged father to appear for the interview, administrative paternity and support orders may be entered against him by default; and

G) that the alleged father may be ordered to pay current support and retroactive support, and to provide health insurance coverage for the child.

4) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of the child, the alleged father has physical custody of the child, and support is sought from the mother. The notice shall contain the following:

A) the Title IV-D case name and identification number;

B) the name and birthdate of the non-marital child;

C) that the mother has a legal obligation to support the child;

D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;

E) that the mother should bring specified information regarding her income and resources to the interview;

F) that the mother may be ordered to pay current support and retroactive support, and to provide health insurance coverage for the child;

G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and

H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:

i) an administrative support order may be entered against the mother by default or the Department may seek court determination of financial ability based upon the guidelines; and

ii) the Department may enter an order finding the alleged father to be the father of the child.

5) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of a child, an adult other than a parent of the child has physical custody of the child, and support is sought from the mother and the alleged father. The notice shall contain the following:

A) the Title IV-D case name and identification number;

B) the name and birthdate of the non-marital child;

C) that the mother has a legal obligation to support the child;

D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;

E) that the mother should bring specified information regarding her income and resources to the interview;

F) that the mother may be ordered to pay current support and retroactive support, and to provide health insurance coverage for the child;

G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and

H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:

i) an administrative support order may be entered against the mother by default or the Department may seek an administrative or court determination of financial ability based upon the guidelines; and

ii) the Department may enter an order finding the alleged father to be the father of the child on the basis of genetic testing.

6) Where the man alleged to be the father of a child is different from a man presumed to be the father under Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)], the Department shall send a notice to the presumed father which shall contain the following:

A) the Title IV-D case name and identification number;

B) the child's name and birthdate;

C) the name of the child's mother;

D) that the man to whom the notice is directed has been identified as the child's presumed father;

E) that another man has been alleged to be the child's father, and the name of that alleged father;

F) that the Department has scheduled an interview with the alleged father for the purpose of determining the child's paternity, and the date, time and place of the interview (the date of the interview shall not be less than ten working days after the date of the notice to the presumed father);

G) that if the presumed father fails to appear at the interview to assert his rights as the presumed father, the Department may enter an administrative order finding the alleged father to be the child's father on the basis of genetic testing, or if the alleged father and the child's mother voluntarily sign an acknowledgment that the alleged father is the father of the child; and

H) that counsel may accompany the presumed father to the interview.

7) The Department shall notify each Title IV-D client of the date, time and place of the alleged father interview and that the client may attend if the client chooses.

8) In cases involving a non-marital child:

A) The Department shall provide the alleged father and the child's mother an opportunity to establish paternity by voluntarily signing an acknowledgment of paternity (and, in a case in which there is also a presumed father, an opportunity for the mother and the presumed father to sign a denial of paternity), after being provided with information concerning the implications of signing the acknowledgment (and denial), including parental rights and responsibilities of child support, retroactive support, health

insurance coverage, custody, visitation, the right to obtain and agree to be bound by the results of genetic testing, and the right to deny paternity and obtain a contested hearing.

B) The Department shall enter and, within 14 days after entry, serve or mail the parties a copy of an administrative paternity order finding the alleged father to be the father of the child in the following circumstances. An acknowledgment of receipt signed by the client or relative or a written statement identifying the place, date, and method of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person. The Department shall enter the order where:

i) the alleged father and the child's mother (and any presumed father) have voluntarily signed an agreement to be bound by the results of genetic testing, and the results of such testing show that the alleged father is not excluded and that the combined paternity index is at least 500 to 1;

ii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him in a case in which support is sought from the alleged father, or fails to appear for scheduled genetic testing after signing an agreement to be bound by the results of genetic testing;

iii) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where the alleged father has physical custody of the child;

iv) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where an adult other than a parent of the child has physical custody of the child, the alleged father has voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1;

v) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him (or fails to appear for genetic testing after agreeing to be bound by the results of genetic testing) in a case where an adult other than a parent of the child has physical custody of the child;

vi) the presumed father fails to appear in response to the Department's notice to presumed father served upon him, the child's mother, and the alleged father have voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1; or

vii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him, and the presumed father fails to appear in response to the Department's notice to presumed father served upon the presumed father.

C) The Department shall make a determination that the alleged father is not the father of the child where the results of genetic testing exclude the alleged father.

9) An agreement to be bound by the results of genetic testing under subsection (b)(8)(B) of this Section shall not be valid where the mother or alleged father is a minor, unless the parent or guardian of the minor mother or minor alleged father also signs the agreement to be bound by the results of genetic testing, except where the mother or alleged father is either emancipated or head of his or her own household with the child for whom paternity is being determined.

10) A party aggrieved by entry of an administrative paternity order, pursuant to subsection (b)(8) of this Section, may have the order vacated if, within 30 days after the authorized mailing or service of the order, the party appears in person at the office to which he or she was given notice to appear for an interview pursuant to subsection (b)(3) of this Section and

files a written request for relief from the order. The Department shall then proceed with the establishment of paternity under this Section. A party may obtain relief under this subsection (b) only once in any proceeding to establish paternity.

11) The child's mother or the alleged father may void the presumption of paternity created by voluntarily signing an acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12] by signing a rescission of paternity and filing it with the Department by the earlier of:

A) 60 days after the date the acknowledgment of paternity was signed; or

B) the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the mother or the alleged father is a party.

12) If the mother or alleged father signs a rescission of paternity, the Department shall process the case under this subsection (b).

c) Contested Paternity Hearing Officers

1) Except as otherwise directed by the Department or provided for in this Part, cases in which paternity is contested shall be referred to Department hearing officers to administratively determine paternity. The Department shall provide the alleged father (and any presumed father) with notice and opportunity to contest paternity at a hearing to determine the existence of the father and child relationship. The notice and any administrative hearing shall be governed by 89 Ill. Adm. Code 104.200 through 104.295. Any administrative support order shall be established in accordance with Section 160.60.

2) Notice shall be given to all parties in the manner provided for service of a notice of alleged paternity and support obligation under subsections (a) and (b) of this Section or, where necessary, by publication in cases in which the whereabouts of a party or parties are unknown after diligent location efforts by the Department. Where service is by publication, the notice shall be published at least once in each week for three consecutive weeks in a newspaper published in the county in which the administrative

proceeding is pending. If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining Illinois county having a circulation in the county in which the administrative proceeding is pending. In addition, where service is by publication, the date of the interview stated in the notice shall not be less than 30 days after first publication of the notice.

3) The Department shall enter default paternity determinations in contested administrative cases as provided for under subsection (b) of this Section. However, where notice of the administrative proceedings was served on a party by publication under subsection (c)(2) of this Section, a notice of default paternity determination shall be published in the same manner. The notice of default paternity determination shall contain the information required in an administrative paternity order under subsections (d)(1) through (9) of this Section, except that the notice of default paternity determination shall not include the mother's and father's Social Security numbers. The Department shall not proceed to establish paternity administratively under subsection (c) of this Section in those cases wherein the court has acquired jurisdiction previously or the custodial parent claims good cause for failing to cooperate in the establishment of paternity and is found to be exempt from cooperating as set forth in Section 160.35.

4) In any case where the administrative paternity process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the paternity determination case shall remain in the original county of venue unless a transfer to another county of proper venue is requested by either party and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative paternity process.

d) An administrative paternity order, whether entered under subsection (b) or (c) of this Section, shall include the following:

1) the Title IV-D case name and identification number;

2) the name and birthdate of the child for whom paternity is determined;

3) the alleged father's name and his Social Security number, if known;

4) the mother's name and her Social Security number, if known;

5) a finding that the alleged father is the father of the child, and a statement indicating how paternity was determined (for example, agreement to be bound by the results of genetic testing, default, contested hearing);

6) except in cases in which paternity is administratively determined under subsection (b)(8)(B)(ii), (v) or (viii) of this Section, or in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that each has 30 days after the date of mailing (or delivery at the interview) of the administrative paternity order to petition the Department for release from the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.105;

7) in cases in which paternity is administratively determined by default under subsection (b)(8)(B)(ii), (v) or (viii) of this Section, a statement informing the client and responsible relative of the relief available pursuant to subsection (b)(10) of this Section;

8) a statement that more than 30 days after entry of an administrative paternity order, a party aggrieved by entry of the administrative paternity order may petition the Department for release from the order under the provisions of subsection (e) of this Section; and

9) in cases in which paternity is administratively determined in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that the order is a final and binding administrative decision, and whether the order is reviewable only under the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

e) Petitions For Release – Extraordinary Remedies

1) Notwithstanding the statements required by subsection (d) of this Section, more than 30 days after entry of an administrative paternity order under subsection (b) or (c) of this Section, a party aggrieved by entry of an administrative paternity order may petition the Department for release from the order.

2) Petitions under this subsection (e) must:

A) Cite a meritorious defense to entry of the order.

B) Cite the exercise of due diligence in presenting that defense to the Department.

C) Be filed no later than two years following the entry of the administrative paternity order, except that times listed below shall be excluded in computing the two years:

i) time during which the person seeking relief is under legal disability;

ii) time during which the person seeking relief is under duress; and

iii) time during which the ground for relief is concealed from the person seeking relief.

D) Be supported by affidavit or other appropriate showing as to matters not supported by the record.

3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent by certified mail, return receipt requested or by any manner provided by law for service of process. The filing of a petition under this subsection (e) does not affect the validity of the administrative paternity order.

f) When the paternity of a child has been administratively established under subsection (b) or (c) of this Section, the Department shall enter an administrative support order under the process set forth in Section 160.60.

g) In cases in which a final administrative determination of paternity is pending, but there is clear and convincing evidence of paternity based upon the results of genetic testing and upon motion of a party, the Department shall enter a temporary order for support in the manner provided for in Section 160.60.

h) The Department shall notify the Department of Public Health of final administrative paternity determinations, voluntary acknowledgments of paternity, denials of paternity and rescissions of paternity.

i) In cases in which a child's certificate of birth is on file in a state other than Illinois and any of the circumstances stated below occur, the Department shall forward to the other state a copy of the final administrative determination of paternity or the voluntary acknowledgment of paternity (and the presumed father's denial of paternity, if applicable) or the rescission of paternity:

1) the Department enters a final administrative determination of paternity; or

2) the paternity of a child is established by voluntary acknowledgment under Section 12 of the Vital Records Act [410 ILCS 535/12]; or

3) the alleged father or the child's mother rescinds a voluntary acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12].

j) Judicial Process. The Department shall refer Title IV-D cases for judicial action to establish a child's paternity and a responsible relative's support obligation pursuant to the Illinois Parentage Act of 1984 [750 ILCS 45], the Revised Uniform Reciprocal Enforcement of Support Act [750 ILCS 20] or the Uniform Interstate Family Support Act [750 ILCS 22], as appropriate, in matters:

1) involving contested paternity, except where the case is appropriate for referral to a Department hearing officer;

2) where the non-marital child was not conceived in Illinois and the alleged father resides in a state other than Illinois;

3) where the court has acquired jurisdiction previously; or

4) where the results of genetic testing show that the alleged father is not excluded and the combined paternity index is less than 500 to 1, except where the case is appropriate for referral to a Department hearing officer under subsection (c) of this Section.

(Source: Amended at 31 Ill. Reg. 12771, effective August 27, 2007)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 160.64 Compromise of Assigned Obligations

a) For purposes of this Section, the following definitions shall apply:

1) "Assigned obligation" means past due child support or interest accrued on past due child support, or both, assigned to the State under Section 10-1 of the Illinois Public Aid Code [305 ILCS 5/10-1].

2) "Poverty line" means the level of income equal to the official poverty line determined by the federal Office of Management and Budget and revised annually in accordance with 42 USC 9902(2).

3) "Gross monthly income" means the total of all monthly income from all sources, excluding child support and maintenance.

b) The Department shall agree to compromise assigned obligations under the program when the responsible relative:

1) has gross monthly income of no more than 250 percent of the poverty line;

2) owes an assigned obligation totaling at least $500;

3) has an unassigned current support obligation or owes unassigned past due child support, or both; and

4) documents his or her inability to comply with the order for support during the period in which assigned obligations accrued by providing the Department with pay stubs, federal income tax returns, records of financial institutions, or other documents pertaining to that period.

c) A compromise agreement shall provide:

1) that the balance of the responsible relative's child support account will be reduced by the amount of the assigned obligation upon execution of the agreement;

2) that the responsible relative:

A) agrees to:

i) pay any current child support obligation required under the order for support and specified periodic payments toward satisfaction of unassigned past due child support for a period of six months following account reduction; or

ii) make a lump sum payment equal to six months of any such current child support obligation and unassigned past due child support payments; and

B) agrees to make payments agreed upon as a result of a payment plan entered into with the Department; and

C) agrees to accrue no further past due child support obligation during the six-month period following account reduction;

3) that any current support and unassigned past due child support obligation shall continue to be enforceable in any manner provided for by law;

4) that the responsible relative's failure to comply with the terms of the compromise agreement shall have the following effect:

A) nullification of the agreement;

B) reinstatement of the assigned obligation to the responsible relative's account; and

C) prohibition of any future compromise agreement with the responsible relative.

d) The Department will suspend a compromise agreement and refrain from reinstating the assigned obligation to the responsible relative's account if, during the six-month period after execution of the agreement, the responsible relative files a written request for suspension with the Department that includes documentation of the relative's inability to comply with the agreement because of involuntary loss of employment, temporary inability to work due to illness or injury, incarceration, or other justifiable reason.

e) A suspension of a compromise agreement under subsection (d) of this Section shall have a maximum duration of one year during which period the responsible relative shall provide monthly reports to the Department on progress toward resolution of the reason for suspension of the agreement.

f) Upon resumption of a compromise agreement suspended under subsection (d) of this Section, the required six-month compliance period for payment of any current child support obligation and unassigned past due support obligation shall commence anew.

g) The Department shall reduce the amount of the unreimbursed assistance balance in a case by the amount of the assigned obligation compromised under this Section.

(Source: Added at 31 Ill. Reg. 12771, effective August 27, 2007)

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.70 Enforcement of Support Orders

a) Definitions

1) The definitions contained in Section 160.60(a) are incorporated herein by reference.

2) "Qualified child" means a child who is a minor or who, while a minor, was determined to be disabled under Title II or XVI of the Social Security Act, and for whom a support order is in effect.

b) Income Withholding
Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].

c) Federal and State Income Tax Refunds and Other Payments

1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State income tax refunds and other federal and State payments (see Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a], Section 2505-650 of the Department of Revenue Law [20 ILCS 2505/2505-650] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.)) due such relatives.

2) The Department shall submit past-due support amounts to:

A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:

i) in IV-D TANF and IV-D foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than $150. The Department may combine assigned support amounts from the same obligor in multiple cases to reach the minimum amount of $150 for TANF, AFDC and Foster Care cases; however, amounts under this subsection (c)(2)(A)(i) may not be combined with amounts under subsection (c)(2)(A)(ii) to reach the minimum amounts required for submittal; and

ii) in IV-D non-TANF cases, past-due support owed to or on behalf of a qualified child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent, and the amount of past-due support is not less than $500. The Department may combine non-assistance support amounts from the same obligor in multiple cases to reach the minimum amount of $500; however, amounts under this subsection (c)(2)(A)(ii) may not be combined with amounts under subsection (c)(2)(A)(i) to reach the minimum amounts required for submittal.

B) the Illinois Department of Revenue~~Comptroller~~ to intercept State income tax refunds and the Comptroller to intercept other State payments as follows:

i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or $150, whichever is less;

ii) in inactive IV-D TANF or AFDC and IV-D foster care cases, past-due support owed in any amount; and

iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of such circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.

3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount that~~which~~ will be submitted for intercept;

C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:

i) a redetermination by the Department or, after such redetermination,

ii) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and

D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund which may be payable to that spouse, in the case of a joint federal income tax return.

4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.

5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by requesting:

A) a hearing by the Department within 30 days from the date of mailing of the notice; or

B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.

6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within ten days after the responsible relative's request. The Department shall be bound by the decision of the state with the order.

7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

8) The Department shall notify:

A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;

B) the Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;

C) the Illinois Department of Revenue~~Comptroller~~ of any deletion of an amount submitted for State income tax refund and the Comptroller for~~or~~ other payment intercept or any significant decrease in the amount; and

D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.

9) The Department shall:

A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and

B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, such equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his or hers; except that the Comptroller shall apportion such refunds and payments in matters where the intercepted funds have not yet been transferred to the Department.

10) The Department shall as promptly as possible apply collections it receives as a result of intercept under this subsection (c) only against the past-due support amount specified in the advance notice provided the responsible relative pursuant to subsection (c)(3) of this Section and shall promptly apply:

A) federal income tax refunds first to satisfy any IV-D TANF or AFDC or IV-D foster care assigned past-due support and then to satisfy any IV-D non-TANF past-due support; and

B) other federal and State payments in accord with distribution provisions in Subpart F of this Part.

11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:

A) amounts intercepted under this subsection (c) will be applied in accordance with Section 160.130;

B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his share of a joint tax refund.

d) Unemployment Insurance Benefits

1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past-due support amount equal to a one-month~~one-month~~ support obligation.

2) The Department shall take the following action:

A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.

B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.

C) establish the amount to be deducted by data entry to the DES computer file, which amount shall be the lesser of:

i) the amount of the income withholding order; or

ii) fifty percent of the Unemployment Insurance Benefit.

D) receive amounts deducted direct from DES.

E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.

F) post each collection to the Department's payment record.

G) apply each collection to the current support obligation, then to past-due obligations.

H) provide a redetermination within 180 days from the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly deducted amounts.

3) The Department of Employment Security shall take the following action:

A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.

B) pay all amounts deducted direct to the Department.

e) Contempt of Court and Other Legal Proceedings

1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal to not less than a one-month~~one month~~ support obligation, except as set forth in subsection (e)(2) of this Section.

2) Contempt proceedings shall not be used in the following instances:

A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:

i) receiving public assistance;

ii) mentally or physically disabled;

iii) incarcerated;

iv) out-of-the-country;

v) deceased; or

vi) otherwise situated making such action unproductive.

B) other legal or administrative remedies are more appropriate under the circumstances.

3) Contempt and other legal proceedings shall be used to:

A) establish the amount of past-due support;

B) obtain a judgment for purposes of:

i) imposition of a lien against real estate,

ii) levy upon real estate and personal property, or

iii) registration in another state;

C) secure an order for lump sum or periodic payment of the past-due support or judgment;

D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;

E) obtain full or partial payment of past due support through incarceration;

F) ascertain the responsible relative's source and amount of income or location and value of assets;

G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;

H) secure other enforcement relief; and

I) obtain any combination of the above.

4) During the course of contempt or other legal proceedings to enforce support, if it shall appear that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].

5) In TANF cases, the Department shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].

f) Liens Against Real Estate and Personal Property – Judicial Enforcement of Order for Support

1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].

2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following

circumstances exist:

A) the past-due amount is at least $3,500; and

B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.

3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy, or memorandum of judgment in the county wherein the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]).

4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]) when the relative has a known equity which is not less than $3,500 in excess of any statutory exemption.

g) Liens Against Real Estate and Personal Property – Administrative Enforcement of Order for Support

1) Liens against real estate

A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:

i) the amount of past-due support is at least $3,500; and

ii) the responsible relative has an interest in real estate against which a lien may be claimed.

B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of

Titles of the following:

i) the name and address of the responsible relative;

ii) a legal description of the real estate to be levied;

iii) the amount of past-due support to be satisfied by the levy;

iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; and

v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a hearing by the Department.

C) A written request for hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).

D) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

E) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

F) The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative has a known equity in the real estate that is not less than $3,500 in excess of any statutory exemption.

2) Liens against personal property

A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:

i) the amount of past-due support is at least $1,000;

ii) the responsible relative has an interest in personal property against which a lien may be claimed; and

iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least $300.

B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative, any joint owner of whom the Department has knowledge and location information, the financial institution in which an account of the responsible relative is located, the sheriff of the county in which goods or chattels of the responsible relative are located, or any person or entity indebted to or holding personal property of the responsible relative or which may be liable for payment of money in connection with a claim or cause of action of the responsible relative. The notice shall contain the following:

i) the name and address of the responsible relative;

ii) a description of the account or personal property to be levied;

iii) the amount of past-due support to be satisfied by the levy;

iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative;

v) the right of the responsible relative to prevent levy upon the personal property, including accounts, by payment of the past-due support amount in full or by contesting the

determination that past-due support is owed or the amount of past-due support by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and

vi) the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal property already levied, by requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or Levy by the Department may request a hearing by the Department within 45 days after the date of levy of the account or other personal property.

C) In addition to the information to be included in the Notice of Lien or Levy under subsection (g)(2)(B), the Notice of Lien or Levy provided to a financial institution shall:

i) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24];

ii) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit such assets within five days after being served with a Notice to Surrender Assets by the Department;

iii) state that the financial institution may charge the responsible relative's account a fee of up to $50, and that the amount of any such fee be deducted from the account before remitting any assets from the account to the Department; and

iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department within 30 days after receipt of the Notice of Lien or Levy.

D) The form for the response to Notice of Lien or Levy provided for under subsection (g)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:

i) the amount of assets in the responsible relative's account;

ii) the amount of the fee to be deducted from the account;

iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution;

iv) the name and address of any joint owners of the account; and

v) the amount of assets surrendered and remitted to the Department.

E) A written request for a hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon the personal property, although the lien shall remain in effect during the pendency of any appeal taken pursuant to this subsection (g).

F) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner's written request for a hearing.

H) The Department, upon determining a joint owner's share of the personal property or account, shall release the lien against the

personal property or account to the extent of the joint owner's share. If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account.

I) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

J) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions such data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (g).

h) Security, Bond or Other Guarantee of Payment

1) Except as provided in subsections (h)(2) and (3) of this Section, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code [305 ILCS 5/10-17.4].

2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment. Except where the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.

3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include

in the complaint or petition a prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.

i) Past-Due Support Information to Consumer Reporting Agencies

1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (c)(2)(A) of this Section:

A) the name, last known address and Social Security Number of the responsible relative; and

B) the terms and amount of past-due support that~~which~~ has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies, which advance notice shall inform the relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount that~~which~~ will be reported;

C) the date past-due support will be reported; and

D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days from

the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:

A) a request for:

i) a redetermination, or

ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or

B) payment in full of the amount of the past-due support stated in the:

i) advance notice, or

ii) notice of redetermination or hearing results.

6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

j) High-Volume Automated Administrative Enforcement in Interstate Cases

1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of such enforcement activity to the requesting state.

2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and seize such assets through levy or other appropriate processes.

3) The Department may, by electronic or other means, transmit to another

state a request for assistance in a case involving the enforcement of a support order. The request shall:

A) Include such information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.

B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.

4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of such other state.

5) The Department shall maintain records of:

A) The number of such requests for assistance received by the Department.

B) The number of cases for which the Department collected support in response to such a request and the actual amount of such support collected.

k) Past-Due Support Certified to the Illinois Department of Revenue or to the IV-D Agency of Another State for Administrative Enforcement in the Other State

1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Public Aid Code [305 ILCS 5/10-17.9]) or to another state's IV-D agency for administrative enforcement where the responsible relative has property in the other state.

2) The Department may submit past-due support amounts to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:

A) past-due support is owed for a child or for a child and the parent with whom the child is living;

B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3) of this Section;

C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and

D) the responsible relative is not deceased.

3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, which advance notice shall inform the responsible relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount that~~which~~ will be submitted for collection;

C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and

D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.

4) Factors for a satisfactory repayment plan will include, but are not limited to:

A) the amount of past-due support owed;

B) the amount to be paid toward the past-due amount;

C) the amount of current child support obligations; and

D) the individual's ability to pay.

5) The Department shall provide the Illinois Department of Revenue, or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:

A) name;

B) Social Security Number;

C) IV-D identification number; and

D) the past-due support amount.

6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state.

7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.

8) A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) of this Section.

9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.

10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

11) The Department shall:

A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or

B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, which is still in the possession of the Department.

l) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports

1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds $2,500:~~$5,000:~~

A) the name, last known address and Social Security Number of the responsible relative; and

B) the terms and amount of past-due support that~~which~~ has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services, which advance notice shall inform the relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount that~~which~~ will be certified;

C) the date past-due support will be certified; and

D) the right to prevent certification by payment of the past-due

support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:

A) a request for:

i) a redetermination, or

ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or

B) payment in full of the amount of the past-due support stated in the:

i) advance notice, or

ii) notice of redetermination or hearing results.

6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

m) List of Responsible Relatives

1) Any list of responsible relatives owing past-due support to be disclosed pursuant to Section 12-12.1 of the Illinois Public Aid Code [305 ILCS 5/12-12.1] shall be developed as required by this subsection (m).

2) The list shall include no more than 200 responsible relatives at any given time, shall include only responsible relatives owing $5,000 or more in past-due support accumulated under Illinois court or administrative support orders, and shall include, but is not limited to, the following information about each responsible relative:

A) the name of the responsible relative;

B) the responsible relative's last known address; and

C) the amount of past-due support as of a given date, expressed within a range (for example, $50,000-$100,000), that has accumulated under the support order.

3) The Department shall make the list available for public inspection at its offices or by other means of publication, including the Internet.

4) The Department shall send an advance notice by certified mail to the responsible relative at his or her last known address at least 90 days prior to publishing past-due support information. The advance notice shall inform the responsible relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount as of a given date;

C) the earliest date by which past due support information will be published;

D) the right to contest the determination that past-due support is owed or the amount of past-due support by submitting a written request to the Department for a hearing no later than 10 days before the date of publication stated in the advance notice; and

E) that within 60 days from the date of delivery or refusal of the advance notice, the responsible relative may avoid publication of the past-due support information by paying the past-due support in full, or by establishing and complying with a satisfactory payment plan as determined by the Department.

5) Factors for a satisfactory payment plan will include, but are not limited to:

A) the amount of past-due support owed;

B) the amount to be paid toward the past-due support;

C) the amount of the current support obligation(s); and

D) the responsible relative's ability to pay.

6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.101 and 104.103 upon receipt of a request for a hearing.

7) The Department shall be stayed from publishing past-due support information regarding the responsible relative by any of the following:

A) a timely written request for hearing from the responsible relative regarding the existence or amount of past-due support stated in the advance notice; or

B) as of the date of publishing, a pending judicial review of a final administrative decision of the Department issued pursuant to this subsection.

n) Debit Authorization for Obligors Who Are Not Subject to Income Withholding

1) The Department shall adopt a child support enforcement debit authorization form that, upon being signed by an obligor, authorizes the State Disbursement Unit to debit the obligor's financial institution account periodically in an amount equal to the amount of the child support obligation.

2) The Department shall, upon adoption, inform each financial institution conducting business in this State that the child support enforcement debit authorization form has been adopted and is ready for use.

3) The child support enforcement debit authorization form shall include instructions concerning the debiting of accounts held on behalf of obligors and the transfer of the debited amount to the State Disbursement Unit.

4) When an obligor does not have a payor, as defined in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15], he or she must sign a child support enforcement debit authorization form. The obligor must sign a separate child support enforcement debit authorization form for each financial institution holding an account on his or her behalf in which a child support payment is to be debited and transferred to the State Disbursement Unit.

5) The signing and issuance of a child support enforcement debit authorization form does not relieve the obligor from responsibility for compliance with any requirement under the order for support.

6) It is the responsibility of the obligor to notify the State Disbursement Unit in accordance with the instructions provided on the child support enforcement debit authorization form.

o) Other Remedies
The Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.

(Source: Amended at 31 Ill. Reg. 12771, effective August 27, 2007)

Section 160.75 Withholding of Income to Secure Payment of Support

a) Definitions
The definitions contained in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15], are incorporated herein by reference.

b) Entry of Order for Support Containing Income Withholding Provisions; Income Withholding Notice

1) The Department, through its legal representative, shall request that when entering an order for support the court include in the order the following income withholding provisions, as required by law:

A) that an income withholding notice be prepared by the Department and served immediately upon any payor of the obligor, unless a written agreement is reached between and signed by both parties providing for an alternative arrangement, approved and entered into the record by the court, which ensures payment of support. In that case, the Department, through its legal representative, shall request that the order for support provide that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support; and

B) a dollar amount to be paid until payment in full of any delinquency that accrues after entry of the order for support; the dollar amount not to be less than 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the order for support; and

C) the obligor's Social Security Number disclosed to the court as required by law; and

D) if the obligor is not a United States citizen, the obligor's alien registration number, passport number, and home country's social security or national health number disclosed to the court as required by law.

2) The income withholding notice prepared by the Department shall:

A) be in the standard format prescribed by the federal Department of Health and Human Services; and

B) state the date of entry of the order for support upon which the income withholding notice is based; and

C) direct any payor to withhold the dollar amount required for current support under the order for support; and

D) direct any payor to withhold the dollar amount required to be paid periodically under the order for support for payment of the amount of any arrearage stated in the order for support; and

E) state the amount of the payor income withholding fee as provided by law; and

F) state that the amount actually withheld from the obligor's income for support and other purposes, including the payor's withholding fee, may not be in excess of the maximum amount permitted under the federal Consumer Credit Protection Act; and

G) state the duties of the payor and the fines and penalties provided by law for failure to withhold and pay over income and for discharging, disciplining, refusing to hire, or otherwise penalizing the obligor because of the duty to withhold and pay over income; and

H) state the rights, remedies, and duties of the obligor, as provided by law; and

I) include the Social Security Number~~Numbers~~ of the obligor~~, the obligee, and the child or children included in the order for support~~; and

J) include the date withholding for current support terminates, which shall be the date of termination of the current support obligation set forth in the order for support; and

K) contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office, except that the failure to contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office shall not affect the validity of the income withholding notice; and

L) direct any payor to pay over amounts withheld for payment of support to the State Disbursement Unit.

3) Notwithstanding the exception to immediate income withholding referred to in subsection (b)(1)(A) of this Section, if the court finds at the time of any hearing that an arrearage has accrued, the Department, through its legal representative, shall request that the court order immediate service of

an income withholding notice upon the payor, as required by law.

c) Service of Income Withholding Notice

1) If the order for support requires immediate service of an income withholding notice, the Department shall serve the notice on the payor within two business days after the date the order is received if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If the Department receives the payor's address from the Illinois Directory of New Hires, as established under Section 1801.1 of the Unemployment Insurance Act [820 ILCS 405/1801.1], the Department shall serve an income withholding notice and, where applicable, a National Medical Support Notice, on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.

2) The Department may serve the income withholding notice on the payor or its superintendent, manager, or other agent by ordinary mail or certified mail, return receipt requested, by facsimile transmission or other electronic means, by personal delivery, or by any method provided by law for service of a summons. At the time of service on the payor and as notice that withholding has commenced, the Department shall serve a copy of the income withholding notice on the obligor by ordinary mail addressed to his or her last known address. A copy of the income withholding notice together with proofs of service on the payor and the obligor shall be filed by the Department with the Clerk of the Circuit Court.

3) Notwithstanding the fact that the order for support, under the exception to immediate withholding referred to in subsection (b)(1)(A) of this Section, provides that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support, the Department shall serve an income withholding notice on the payor prior to accrual of a delinquency if the obligor executes a written waiver of that condition and requests immediate service on the payor.

4) At any time after the initial service of an income withholding notice, the Department may serve any other payor of the obligor with the same

income withholding notice without further notice to the obligor. A copy of the income withholding notice together with a proof of service on the other payor shall be filed with the Clerk of the Circuit Court.

d) Income Withholding After Accrual of Delinquency

1) The Department shall prepare and serve an income withholding notice within two business days after the date the obligor accrues a delinquency if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If the payor's address is unknown on the date the obligor accrues a delinquency, and the Department receives the payor's address from the Illinois Directory of New Hires, the Department shall serve an income withholding notice on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.

2) An income withholding notice prepared by the Department under subsection (d)(1) of this Section shall:

A) contain the information required under subsection (b)(2) of this Section; and

B) contain the total amount of the delinquency as of the date of the notice; and

C) direct the payor to withhold the dollar amount required to be withheld periodically under the order for support for payment of the delinquency; and

D) be served on the payor and the obligor in the manner provided in subsection (c)(2) of this Section.

3) The obligor may contest withholding commenced under this subsection (d) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to:

A) a dispute concerning the existence or amount of the delinquency; or

B) the identity of the obligor.

4) The accrual of a delinquency as a condition for service of an income withholding notice, under the exception to immediate withholding referred to in subsection (b)(1)(A) of this Section, shall apply only to the initial service of an income withholding notice on a payor of the obligor.

e) Initiated Withholding

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

2) The income withholding notice and the obligor's copy of the income withholding notice shall be served as provided in subsection (c)(2) of this Section.

3) The obligor may contest withholding commenced under this subsection (e) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to a dispute concerning the conditions in subsections (e)(3)(A) and (B) of this Section (it shall not be grounds for filing a petition that the obligor has made all payments due by the date of the petition):

A) whether the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A) of this Section continues to ensure payment of support; or

B) the identity of the obligor.

f) Petitions to Modify, Suspend or Terminate an Order for Withholding

1) At any time the Department, through its legal representative, may petition the court to:

A) modify, suspend or terminate the income withholding notice because of a modification, suspension, or termination of the underlying order for support;

B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or

C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery.

2) The Department shall serve on the payor, in the manner provided for service of income withholding notices in subsection (c)(2) of this Section, a copy of any order entered pursuant to this subsection (f) that affects the duties of the payor.

3) The Department may serve a notice on the payor to:

A) cease withholding of income for payment of current support for a child when the support obligation for that child has automatically ceased under the order for support through emancipation or otherwise; or

B) cease withholding of income for payment of delinquency or arrearage when the delinquency or arrearage has been paid in full.

4) The notice provided for under subsection (f)(3) of this Section shall be served on the payor in the manner provided for service of income withholding notices in subsection (c)(2) of this Section, and a copy shall be provided to the obligor and the obligee.

g) Additional Duties
The Department shall provide notice to the payor and Clerk of the Circuit Court of any other support payment made, including but not limited to:

1) an offset under federal or State law; or

2) partial payment of the delinquency or arrearage or both.

h) Alternative Procedures for Service of an Income Withholding Notice

1) The procedures of this subsection (h) shall be used by the Department in any matter to serve an income withholding notice on a payor if:

A) For any reason the most recent order for support entered does not contain the income withholding provisions stated in subsection (b) of this Section, irrespective of whether a separate order for withholding was entered prior to July 1, 1997; and

B) The obligor has accrued a delinquency after entry of the most recent order for support.

2) The Department shall prepare and serve the income withholding notice in accordance with the provisions of subsection (d) of this Section, except that the notice shall contain a periodic amount for payment of the delinquency equal to 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the most recent order for support.

3) If the obligor requests in writing that income withholding become effective prior to the obligor accruing a delinquency under the most recent order for support, the Department shall prepare and serve an income withholding notice on the payor as provided in subsections (b) and (c) of this Section. In addition to filing proofs of service of the income withholding notice on the payor and the obligor, the Department shall file a copy of the obligor's written request for income withholding with the Clerk of the Circuit Court.

i) Notice to Payor
Whenever the Department serves an income withholding notice on a payor, notice

of the following shall be included in or with the income withholding notice:

1) that the payor must begin deducting no later than the next payment of income which is payable or creditable to the obligor that occurs 14 days following the date the income withholding notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the payor;

2) that the payor must pay the amount withheld to the State Disbursement Unit within seven business days after the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;

3) that if the payor knowingly fails to withhold the amount designated in the income withholding notice or to pay any amounts withheld to the State Disbursement Unit within seven business days after the date the amount would have been paid or credited to the obligor, the payor is subject to a penalty of $100 for each day that the amount designated in the income withholding notice (whether or not withheld by the payor) is not paid to the State Disbursement Unit after the period of seven business days has expired;

4) that the payor may combine all amounts withheld for the benefit of an obligee or public office into a single payment and transmit the payment with a listing of obligors from whom withholding has been effected;

5) that for each deduction the payor must provide the State Disbursement Unit at the time of transmittal, with the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;

6) that for withholding of income, the payor is entitled to a fee not to exceed $5 per month to be taken from the income to be paid to the obligor;

7) that the amount actually withheld for support, the child's health insurance premium and payor withholding fee shall not exceed the maximum amount permitted under the federal Consumer Credit Protection Act. Income available for withholding shall be applied first to the current support obligation, then to any premium required for employer, labor union, or trade union-related health insurance coverage ordered under the order for support, and then to payment required on past due support

obligations. If there is insufficient available income remaining to pay the full amount of the required health insurance premium after withholding of income for the current support obligation, then the remaining available income shall be applied to payments required on past due support obligations;

8) require that whenever the obligor is no longer receiving income from the payor, the payor must return a copy of the income withholding notice to the Department and provide the obligor's last known address and the name and address of the obligor's new payor, if known;

9) that withholding of income under the income withholding notice must be made without regard to any prior or subsequent garnishments, attachments, wage assignments, or any other claims of creditors;

10) that the income withholding notice is binding upon the payor until service of an order of the court or a notice from the Department or Clerk of the Circuit Court;

11) that the payor is subject to a fine of up to $200 for discharging, disciplining or otherwise penalizing an obligor because of the duty to withhold income;

12) that if the payor willfully fails to withhold or pay over income pursuant to a properly served income withholding notice that the payor is liable for the total amount that the payor willfully failed to withhold or pay over;

13) that if the payor has been served with more than one income withholding notice pertaining to the same obligor, the payor shall allocate income available on a proportionate share basis, giving priority to current support payments; and

14) that a payor who complies with an income withholding notice that is regular on its face is not subject to civil liability with respect to any individual, any agency, or any creditor of the obligor for conduct in compliance with the notice.

j) Notice to Obligor
When the Department serves a copy of the income withholding notice on the

obligor as required under this Section, notice of the following shall be included in or with the obligor's copy of the income withholding notice:

1) that income withholding has commenced;

2) the information provided to the payor under subsection (i) of this Section;

3) the procedures and the permissible grounds for contesting withholding commenced under subsection (d), (e) or (h) of this Section, as applicable;

4) that at any time the obligor may petition the court to:

A) modify, suspend or terminate the income withholding notice because of a modification, suspension or termination of the underlying order for support; or

B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or

C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery; or

D) correct a term contained in an income withholding notice to conform to that stated in the underlying order for support for:

i) the amount of current support;

ii) the amount of the arrearage;

iii) the periodic amount for payment of the arrearage; or

iv) the periodic amount for payment of the delinquency;

5) that the obligor is required by law to notify the obligee, the Department, and the Clerk of the Circuit Court of any new address or payor within seven days after the change; and

6) that where a payor willfully discharges, disciplines, refuses to hire or otherwise penalizes an obligor because of the duty to withhold income, the obligor may file a complaint with the court against the payor, and that the court may order employment or reinstatement of or restitution to the obligor, or may impose a fine upon the payor not to exceed $200.

k) Penalties
In cases where a payor willfully fails to withhold or pay over income, pursuant to a properly served income withholding notice, or otherwise fails to comply with any income withholding duties imposed by law, the Department, through its legal representatives, may request that the court:

1) enter judgment and direct the enforcement thereof for the total amount that the payor willfully failed to withhold or pay over;

2) impose a penalty or fine upon the payor or invoke any other remedy allowed by law.

l) Interstate Income Withholding
Within the timeframes specified in subsections (c)(1) and (d)(1) of this Section, and pursuant to the provisions of the Uniform Interstate Family Support Act [750 ILCS 22], the Department shall engage income withholding in cases in which the obligor is receiving income from a payor located in another state.

m) Use of National Medical Support Notice to Enforce Health Insurance Coverage

1) When an order for support is being enforced by the Department under this Section, any requirement for health insurance coverage to be provided through an employer, including withholding of premiums from the income of the obligor, shall be enforced through use of a National Medical Support Notice.

2) A National Medical Support Notice shall be served on the employer in the manner and under the circumstances provided for serving an income withholding notice under this Section, except that an order for support that conditions service of an income withholding notice on the obligor becoming delinquent in paying the order for support shall not prevent immediate service of a National Medical Support Notice by the Department. The Department may serve a National Medical Support

Notice on an employer in conjunction with service of an income withholding notice. Service of an income withholding notice is not a condition for service of a National Medical Support Notice, however.

3) At the time of service of a National Medical Support Notice on the employer, the Department shall serve a copy of the Notice on the obligor by ordinary mail addressed to the obligor's last known address. The Department shall file a copy of the National Medical Support Notice, together with proofs of service on the employer and the obligor, with the clerk of the circuit court.

4) Within 20 business days after the date of a National Medical Support Notice, an employer served with the Notice shall transfer the severable notice to plan administrator to the appropriate group health plan providing any health insurance coverage for which the child is eligible. As required in the part of the National Medical Support Notice directed to the employer, the employer shall withhold any employee premium necessary for coverage of the child and shall send any amount withheld directly to the plan. The employer shall commence the withholding no later than the next payment of income that occurs 14 days after the date the National Medical Support Notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the employer. Notwithstanding the requirement to withhold premiums from the obligor's income, if the plan administrator informs the employer that the child is enrolled in an option under the plan for which the employer has determined that the obligor's premium exceeds the amount that may be withheld from the obligor's income due to the withholding limitation or prioritization contained in Section 35 of the Income Withholding for Support Act, the employer shall complete the appropriate item in the part of the National Medical Support Notice directed to the employer according to the instructions in the Notice and shall return that part to the Department.

5) If one of the following circumstances exists, an employer served with a National Medical Support Notice shall complete the part of the Notice directed to the employer in accordance with the instructions in the Notice and shall return that part to the Department within 20 business days after the date of the Notice:

A) The employer does not maintain or contribute to plans providing dependent or family health insurance coverage.

B) The obligor is among a class of employees that is not eligible for family health insurance coverage under any group health plan maintained by the employer or to which the employer contributes.

C) Health insurance coverage is not available because the obligor is no longer employed by the employer.

6) The administrator of a health insurance plan to whom an employer has transferred the severable notice to plan administrator part of a National Medical Support Notice shall complete that part with the health insurance coverage information required under the instructions in the Notice and shall return that part to the Department within 40 business days after the date of the Notice.

7) The obligor may contest withholding under this Section based only on a mistake of fact and may contest withholding by filing a petition with the clerk of the circuit court within 20 days after service of a copy of the National Medical Support Notice on the obligor. The obligor must serve a copy of the petition on the Department at the address stated in the National Medical Support Notice. The National Medical Support Notice, including the requirement to withhold any required premium, shall continue to be binding on the employer until the employer is served with a court order resolving the contest or until notified by the Department.

8) Whenever the obligor is no longer receiving income from the employer, the employer shall return a copy of the National Medical Support Notice to the Department and shall provide information for the purpose of enforcing health insurance coverage under this Section.

9) The Department shall promptly notify the employer when there is no longer a current order for health insurance coverage in effect that the Department is responsible for enforcing.

10) Unless stated otherwise in this Section, all of the provisions of this Section relating to income withholding for support shall pertain to income withholding for health insurance coverage under a National Medical

Support Notice, including but not limited to, the duties of the employer and obligor, and the penalties contained in Section 35 and Section 50 of the Income Withholding for Support Act. In addition, an employer who willfully fails to transfer the severable notice to plan administrator part of a National Medical Support Notice to the appropriate group health plan providing health insurance coverage for which a child is eligible, within 20 business days after the date of the Notice, is liable for the full amount of medical expenses incurred by or on behalf of the child which would have been paid or reimbursed by the health insurance coverage had the severable notice to plan administrator part of the Notice been timely transferred to the group health insurance plan. This penalty may be collected in a civil action that may be brought against the employer in favor of the obligee or the Department.

11) When the administrator of a health insurance plan returns the severable notice to plan administrator portion of a National Medical Support Notice to the Department indicating that there is more than one option available for coverage of the child under the plan, the Department, within 20 days after the date the portion is returned, shall consult with the obligee, select from the available options, and inform the plan administrator of the option selected.

n) Refund of Improperly Withheld Amounts
The Department shall promptly refund to the obligor amounts found to have been improperly withheld from the obligor's income.

(Source: Amended at 31 Ill. Reg. 12771, effective August 27, 2007)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Homeowner Mortgage Revenue Bond Program

2) Code Citation: 47 Ill. Adm. Code 260

3) Section Number: 260.103 — Adopted Action: Amended

4) Statutory Authority: Implementing and authorized by the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23]

5) Effective Date of Amendment: August 22, 2007

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. A copy of the adopted rule is on file at the Illinois Housing Development Authority, located at 401 N. Michigan Ave., Ste. 700, Chicago, IL 60611.

9) Notice of Proposal Published in the Illinois Register: May 18, 2007; 31 Ill. Reg. 7228

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Difference between proposal and final version:

In Section 260.103 definition of "Eligible Borrower": "sixty" and the parentheses were stricken; "fifteen percent" and the parentheses were stricken.

In Section 260.103 definition of "Household Income": "Borrower(s)" was amended to "Borrowers".

In Section 260.103 definition of "Lender": "twelve" and the parentheses were stricken.

In Section 260.103 definition of "Qualified Dwelling": "fifteen percent" and the parentheses were stricken; "sixty" and the parentheses were stricken.

The Editor's Note after the main source note was stricken.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENT

In Section 260.103 definition of "VA": "United States Veteran's Administration" was amended to "United States Department of Veteran Affairs".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

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

15) Summary and Purpose of Amendment: The amendment involves the administration of the Homeowner Mortgage Revenue Bond Program.

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

Kristi S. Poskus
Illinois Housing Development Authority
401 N. Michigan Ave., Ste. 700
Chicago, IL 60611

312/836-7416

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

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENT

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 260
HOMEOWNER MORTGAGE REVENUE BOND PROGRAM

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260.102 Purposes and Objectives
260.103 Definitions
260.104 Borrowing by the Authority
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ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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SUBPART D: PURCHASE OF MORTGAGE LOANS

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260.401 Mortgage Loans
260.402 Yield on Mortgage Loans
260.403 Terms and Conditions of the Purchase of Mortgage Loans
260.404 Prepayment
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SUBPART E: ADMINISTRATIVE RULES

Section
260.501 Restrictions on Return Realized by Lenders
260.502 Servicing of Mortgage Loans
260.503 Purchase of Authority Bonds
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260.505 Inspection of Books and Records
260.506 Termination

AUTHORITY: Authorized by Sections 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23].

SOURCE: Adopted at 18 Ill. Reg. 17229, effective November 16, 1994; amended at 22 Ill. Reg. 3851, effective February 4, 1998; emergency amendment at 31 Ill. Reg. 5883, effective March 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 12852, effective August 22, 2007.

~~EDITOR'S NOTE: The federal agency referred to in this Part as the "VA" and "The United States Veterans' Administration" changed its name in 1989 to the United States Department of Veterans Affairs.~~

SUBPART A: GENERAL RULES

Section 260.103 Definitions

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENT

As used in this Part, the following words or terms mean:

"Act": The Illinois Housing Development Act [20 ILCS 3805].

"Allocation": The amount of funds reserved to a Lender in a Series Program pursuant to a Lender Application and a Notice of Acceptance.

"Assistant Director": The Assistant Director of the Authority.

"Authority": The Illinois Housing Development Authority.

"Bonds": The Homeowner Mortgage Revenue Bonds issued by the Authority pursuant to the Act from time to time to finance the Program.

"Code": The Internal Revenue Code of 1986, as amended and supplemented, and the regulations promulgated by the Treasury Department thereunder.

"Commitment Fee": The fee that the Authority may require a prospective HomeBuilder to pay to the Authority at the time it files its HomeBuilder Application.

"Deputy Director": The Deputy Director of the Authority.

"Director": The Director of the Authority.

"Eligible Borrower": A person:

who is or will be a resident of the State within sixty days after the closing of his purchase of a Qualified Dwelling;

whose Household Income does not exceed the Maximum Income;

who intends to use the Qualified Dwelling being financed by a Mortgage Loan as his permanent residence within ~~sixty (~~60~~)~~ days after the closing of the Mortgage Loan;

who occupies or intends to occupy as a single household the Qualified Dwelling purchased or being purchased as a permanent residence; and

who at no time during the 3-year period ending on the date of closing of the Mortgage Loan had a present ownership interest in his principal residence.

An Eligible Borrower who purchases a Targeted Area Residence or a Qualified Rehabilitation Residence, or who qualifies under any other provision of the Code, is exempt from the 3-year requirement of this definition~~subsection~~. For purposes of this definition~~subsection~~, the Eligible Borrower's interest in the Qualified Dwelling financed under this Program shall not be taken into account.

A residence that is used as an investment property or a recreational home, or that is primarily intended to be used in a trade or business (including, without limitation, any residence of which more that ~~fifteen percent (~~15%~~)~~ of the total area is reasonably expected to be used primarily in a trade or business), does not satisfy the requirements of this subparagraph.

"FHA": The Federal Housing Administration.

"FHLMC": The Federal Home Loan Mortgage Corporation.

"FmHA": The Farmer's Home Administration.

"FNMA": The Federal National Mortgage Association.

"HomeBuilder": An individual or entity approved by the Authority that:

for the 12-month period preceding the date of its HomeBuilder Application for participation in a Series Program had insurance coverage for product liability, worker's compensation and builder's risk;

and had constructed at least two buildings in that same 12-month period or, in the alternative, had constructed at least four buildings in the 24-month period preceding the date of its HomeBuilder Application for participation in a Series Program.

"HomeBuilder Application": A prospective HomeBuilder's application to construct Qualified Dwellings for sale to Eligible Borrowers pursuant to the terms of a HomeBuilder Participation Agreement and other Program documents.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENT

"HomeBuilder Participation Agreement": The agreement between the Authority and a HomeBuilder pursuant to which the HomeBuilder agrees to construct new Qualified Dwellings for purchase by Eligible Borrowers, and the Authority agrees to purchase Mortgage Loans financing such newly constructed Qualified Dwellings, under the terms and conditions set forth therein.

"Household Income": The total annualized gross income of the Eligible Borrowers~~Borrower(s)~~, and any other person who is expected to live in the Qualified Dwelling and be secondarily liable on the Note, all persons residing or intending to reside as a single household in a Qualified Dwelling, from whatever source derived and before taxes or withholdings; provided that if a married person takes title to the Qualified Dwelling individually the income of the spouse shall also be included.

"Lender": A State-chartered bank, national banking association, mortgage banking association or institution, credit union, or State or federal savings and loan association:

that is located and qualified to do business in the State;

that is qualified to sell mortgages to FNMA and/or FHLMC (this requirement may be waived by the Director after determination that the assets of the Lender exceed $500,000, that the percentage of mortgage delinquencies in the Lender's single family portfolio do not exceed 2.15 times the Statewide average as determined by the last quarterly pronouncement by the United States Federal Home Loan Bank Board and that the Lender has an asset-to-liability ratio of at least 1.01/1);

the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or which deposits its funds in Illinois financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation; and
whose Lender Application has been accepted by the Director, Deputy Director or Assistant Director based upon the satisfaction of the requirements of the Series Program under which the Lender has submitted such Lender Application and a determination of financial suitability after consideration of the net assets, lending capacity, and experience of the potential Lender over the past ~~twelve (~~12~~)~~ months in residential mortgage

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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lending. The Authority may also be a Lender.

"Lender Application": A prospective Lender's application to sell Mortgage Loans to the Authority pursuant to the terms of a Mortgage Purchase Agreement and other Series Program documents.

"Maximum Income": Unless otherwise permitted by the Code, 115% of the median family income of either the metropolitan statistical area or primary metropolitan statistical area in which the Qualified Dwelling is located or the State, whichever is greater, as determined by the Internal Revenue Service.

"Members": The Members of the Authority.

"Mortgage": The mortgage, or other instrument in the nature of a mortgage, creating a first mortgage lien on a fee interest in real estate, together with all supplements, modifications or amendments to it.

"Mortgage Loan": A loan made by a Lender to an Eligible Borrower for the purchase of a Qualified Dwelling and secured by a Mortgage on such Qualified Dwelling. No Mortgage Loan shall be a replacement or refinancing of an existing mortgage loan except in the case of a Qualified Rehabilitation Loan or other temporary loans, as permitted by Section 143 of the Code.

"Mortgage Purchase Agreement": The agreement between the Authority and a Lender pursuant to which the Authority agrees to purchase Mortgage Loans from the Lender on the terms and conditions set forth therein and which establishes the requirements for Mortgage Loans to be purchased by the Authority.

"Net Proceeds": With respect to the proceeds of each series of Bonds, all moneys made available by the Authority for the purchase of Mortgage Loans.

"Notice of Acceptance": The Authority's notice to a Lender accepting its Lender Application.

"Notice of Reservation of Funds": The Authority's notice to a HomeBuilder accepting its Homebuilder Application and setting forth the amount of the HomeBuilder's Reservation.

"Part": This Part 260.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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"Prepayment": Any moneys, however derived, that are received or recovered by the Authority from any payment of, or with respect to, principal on any Mortgage Loan prior to scheduled payments of principal required under such Mortgage Loan.

"Private Mortgage Insurance": Insurance coverage paid for by the Eligible Borrower that insures the Authority against losses with respect to defaults on a Mortgage Loan according to the terms of the insurance policy. The Authority may provide Private Mortgage Insurance or its equivalent.

"Program": The Authority's single family mortgage purchase program that is funded with proceeds of Bonds issued after the date of the adoption of the Resolution.

"Property Value": The lesser of the purchase price or the appraised value of the Qualified Dwelling at the time of the origination of the Mortgage Loan secured by such Qualified Dwelling.

"Qualified Dwelling": A fee simple interest in real property:

that is located in the State;

upon which there is located a structure or structures designed for residential use;

that is a single family residence; a condominium unit meeting the requirements of the Mortgage Purchase Agreement; a one-, two-, three- or four-unit structure meeting the requirements of the Code; or factory-made housing that is permanently fixed to real property;

of which not more than ~~fifteen percent (~~15%~~)~~ of the total area is reasonably expected to be used primarily in a trade or business; and

that can reasonably be expected to become the principal residence of the Eligible Borrower within a reasonable time after financing is provided. For purposes of this subparagraph, a "reasonable time after financing is provided" shall be deemed to be a period within ~~sixty (~~60~~)~~ days after closing of the Mortgage Loan. This period may be extended if the

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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Authority determines that undue hardship to the Eligible Borrower or Lender or an unreasonable result will otherwise occur.

"Qualified Rehabilitation Loan": A Mortgage Loan for the purchase of a Qualified Rehabilitation Residence. An Eligible Borrower for a Qualified Rehabilitation Loan must be the first resident of the Qualified Rehabilitation Residence after the completion of the rehabilitation.

"Qualified Rehabilitation Residence": A qualified Dwelling for which there has been a qualified rehabilitation, as defined in Section 143 of the Code.

"Reservation": The amount of funds reserved to a Homebuilder in a Series Program pursuant to a HomeBuilder Application and a Notice of Reservation of Funds.

"Resolution": The Authority's Homeowner Mortgage Revenue Bonds General Resolution setting forth the general terms and conditions under which the Authority may issue, deliver and sell Bonds.

"Rules": The rules of the Authority, as amended and supplemented from time to time.

"Series Program": A mortgage purchase program authorized by a Series Resolution to become a part of the Program.

"Series Resolution": A resolution issued pursuant to the Resolution authorizing the Authority to conduct a Series Program and to issue Bonds to provide financing for the purchase of Mortgage Loans under such Series Program.

"Servicer": A Lender, or its designated servicer, that has been approved by the Director, Deputy Director or Assistant Director as a Servicer and that has executed a Servicing Agreement with the Authority. The Authority may also be a Servicer. A designated servicer other than the Authority must be:

a State-chartered bank, national banking association, mortgage banking association or institution, credit union or State or federal savings and loan association~~1~~;

that is qualified to do business in the State;

that is qualified to sell mortgages to FNMA and/or FHLMC, unless such requirement is waived by the Director based upon a determination of financial suitability made by the Director after consideration of the net assets, servicing capacity, and experience of the potential Servicer over the past 12 months in residential mortgage servicing; and

the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or that deposits its funds in Illinois financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation.

"Servicing Agreement": The agreement between a Servicer and the Authority (except when the Authority is the Servicer) that sets forth the terms and conditions for the servicing of Mortgage Loans purchased by the Authority.

"Special Hazard Insurance": Insurance that provides protection with respect to loss on properties acquired in connection with the foreclosure of a defaulted Mortgage Loan by reason of damage to properties caused by certain hazards (including earthquakes, and to a limited extent, tidal waves and related water damage) not insured against under a standard hazard insurance policy required to be obtained by each Eligible Borrower, or a flood insurance policy if the property is in a federally designated flood area. The Authority may provide Special Hazard Insurance or its equivalent.

"Staff": The Director, Deputy Director, Assistant Director and employees of the Authority.

"State": The State of Illinois.

"Supplemental Mortgage Coverage": The coverage, if required by a Series Resolution, whether in the form of insurance, a letter of credit, a guarantee, pledged funds or other forms of coverage, of losses incurred from Mortgage Loan defaults under that Series Program. Supplemental Mortgage Coverage may supplement other mortgage insurance and may include any insurance or reserve fund funded by the Authority.

"VA": The United States Department of Veterans Affairs~~United States Veterans' Administration~~.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENT

(Source: Amended at 31 Ill. Reg. 12852, effective August 22, 2007)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Control of Emissions from Large Combustion Sources

2) Code Citation: 35 Ill. Adm. Code 225

3)

Section Numbers:	Adopted Action:
225.120	Amend
225.130	Amend
225.140	Amend
225.150	New
225.300	New
225.305	New
225.310	New
225.315	New
225.320	New
225.325	New
225.400	New
225.405	New
225.410	New
225.415	New
225.420	New
225.425	New
225.430	New
225.435	New
225.440	New
225.445	New
225.450	New
225.455	New
225.460	New
225.465	New
225.470	New
225.475	New
225.480	New
225.500	New
225.505	New
225.510	New
225.515	New
225.520	New
225.525	New
225.530	New

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

225.535	New
225.540	New
225.545	New
225.550	New
225.555	New
225.560	New
225.565	New
225.570	New
225.575	New
225.600	New
225.605	New
225.610	New
225.615	New
225.620	New
225.625	New
225.630	New
225.635	New
225.640	New
225.APPENDIX A	New

4) Statutory Authority: Implementing and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/27]

5) Effective Date of Amendments: August 31, 2007

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

7) Do these amendments contain incorporations by reference? Yes, all materials are incorporated pursuant to Section 5-75 of the Illinois Administrative Procedure Act (IAPA).

8) The adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 11, 2007; 31 Ill. Reg. 6769

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: Corrects typographical errors.

Changes compliance dates that would have occurred before the rulemaking's 8/31/07 effective date.

Adds Section 225.120 to the rulemaking and amends its text to include new acronyms and abbreviations.

In Section 225.130, deletes the definition of "CAIR Trading Programs".

In Section 225.130, changes the definition of "coal-fired" to apply to Subparts B and F and Sections 225.435, 225.445, 225.535, and 225.545 rather than Subparts B, D, and E.

In Section 225.130, changes the definition of "compliance account" so that it will have one meaning for Subparts D and E and another meaning for Subpart C.

In Section 225.130, changes the definition of "designated representative".

In Section 225.130, changes the definition of "rolling 12-month basis" to include Subpart F as well as Subpart B.

In Section 225.310(a), changes "owner or operator" to "designated representative".

In Section 225.310(c)(1), adds "reporting and recordkeeping requirements" to "monitoring requirements of 40 CFR 96, subpart HHH".

In Section 225.310(d)(1), changes the allowance transfer deadline to midnight of 3/1/10 and midnight of each subsequent year if 3/1 is a business day. If not, it will be midnight of the first business day thereafter. Specifies that the number of allowances held are those held on the allowance transfer deadline. Specifies that for SO_2 emissions, allowances are in tonnage equivalents.

In Section 225.310(d)(3), changes from 1/1/09 to 1/1/10 the deadline for meeting monitoring certification requirements.

In Section 225.310(d)(7), deletes the phrase "allocated by USEPA pursuant to the CAIR SO_2 Trading Program".

In Sections 225.410(a),(b)(1) and 225.510(a),(b)(1), changes "owner or operator" to

"designated representative".

In Section 225.410(d)(1), changes the allowance transfer deadline to midnight of 3/1/10 and midnight of each subsequent year if 3/1 is a business day. If not, it will be midnight of the first business day thereafter. Specifies that the number of allowances held are those held on the allowance transfer deadline.

In Sections 225.410(d)(6),(7) and 225.535(d)(6),(7), deletes the phrase "allocated by the Agency or USEPA pursuant to the CAIR NO_x Annual Trading Program".

In Section 225.420(a)(3), deletes the phrase "and no CAIR NOx compliance account may be established for a CAIR NO_x source".

In Sections 225.435(a)(1) and 225.535(a)(1), deletes the sentence "If the unit does not have gross electrical output for the 2004 and 2005 control periods, the gross electrical output will be the gross electrical output data from the 2005 control period.".

In Sections 225.435(a)(2) and 225.535(a)(2), changes the 2nd and 3rd sentences to "If the unit has three or fewer control periods of heat input data, the heat input will be the average of those control periods for which data is available.".

In Sections 225.435(b)(1) and 225.535(b)(1), changes "; otherwise it will be the unit's most recent control period's gross electrical output" to "If a unit commences commercial operation in the 2007 control period and does not have gross electrical output for the 2006 control period, then the gross electrical output from 2007 will be used.".

In Sections 225.435(b)(2) and 225.535(b)(2), deletes "otherwise the unit's most recent control period's heat input" and "If the unit does not have heat input from the 2006 and 2007 control periods, the heat input from the 2007 control period shall be used.".

In Section 225.435(c), changes "; otherwise it will be the unit's most recent control period's gross electrical output" to "If a unit commences commercial operation in the most recent control period and does not have gross electrical output for two control periods, the gross electrical output from the most recent period, e.g., if the unit commences commercial operation in 2009 and does not have gross electrical output from 2008, gross electrical output from 2009 will be used.".

In Sections 225.435(d) and 225.535(d), changes "; otherwise" to ". In the first year for which a unit is considered to be an existing unit rather than a new unit,".

Changes Section 225.440 to

"a) For the 2009 control period, and each control period thereafter, the Agency will allocate CAIR NO_x allowances to all CAIR NO_x units in Illinois for which the Agency has calculated the converted gross electrical output pursuant to Section 225.435(a), (b), or (c) or total converted gross electrical output pursuant to Section 225.435 (d), as applicable, a total amount of CAIR NO_x allowances equal to tons of NO_x emissions in the CAIR NO_x Annual Trading budget available for allocation as determined in Section 225.425 and as adjusted to add allowances not allocated pursuant to subsection (b) this Section in the previous year's allocation.

b) The Agency will allocate CAIR NO_x allowances to each CAIR NO_x unit on a pro-rata basis using the unit's converted gross electrical output pursuant to Section 225.435(a), (b), or (c) or total converted gross electrical output calculated pursuant to Section 225.435(d), as applicable, to the extent whole allowances may be allocated. The Agency will retain any additional allowances beyond this allocation of whole allowances for allocation pursuant to subsection (b) of this Section in the next control period.".

In Sections 225.445(b) and 225.545(b), changes "first control period after the control period for which the unit may use CAIR NO_x allowances allocated to the unit pursuant to Section 225.440 [or 540]." to "fifth control period after the control period in which the unit commenced commercial operation.".

In Sections 225.445(d)(5) and 225.545(d)(5), deletes subsection (C) and changes subsections (A) and (B) to:

"A) If the NUSA for the control period for which CAIR NO_x allowances are requested has a number of allowances greater than or equal to the total unprorated allocations for all new units requesting allowances, the Agency will allocate the number of allowances using the unprorated allocation determined for that unit pursuant to subsection (d)(4) of this Section, to the extent that whole allowances may be allocated. For any additional allowances beyond this allocation of whole allowances, the Agency will retain the additional allowances in the NUSA for allocation pursuant to this Section in later control periods.

B) If the NUSA for the control period for which the allowances are requested has a number of CAIR NO_x allowances less than the total unprorated allocation to all

new CAIR NO_x units requesting allocations, the Agency will allocate the available allowances for new CAIR NO_x units on a pro-rata basis, using the unprorated allocation determined for that unit pursuant to subsection (d)(4) of this Section, to the extent that whole allowances may be allocated. For any additional allowances beyond this allocation of whole allowances, the Agency will retain the additional allowances in the NUSA for allocation pursuant to this Section in later control periods.".

In Sections 225.445(h) and 225.545(h), changes "for the control period commencing four years in the future" to "five control periods after the control period in which the unit commences commercial operation".

In Sections 225.460(c)(2)(B) and 225.560(c)(2)(B), after "combustion", adds "that commenced operation prior to 12/31/06".

In Sections 225.465 and 225.565, changes subsection (b)(5) to:

"5) For highly efficient power generation and clean coal technology projects:

A) For projects other than fluidized coal combustion pursuant to Section 225.460[or 560](a)(4)(B), (a)(4)(C), and (c)(2), the number of allowances must be calculated using the number of MWh of electricity the project generates during a control period and the following formula:

$$A = (MWh_g) \times (1.0 \text{ lb/MWh} - \text{ER lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of megawatt hours of electricity generated during a control period by a project.

ER = Annual average NO_x emission rate based on CEMS data in 1b/MWh.

B) For fluidized bed coal combustion projects pursuant to Section 225.460 [or 560](c)(2), the number of allowances shall be calculated using the number of gross MWh of electricity the project generates during a control period and the following formula:

$$A = (MWh_g) \times (1.4 \text{ lb/MWh} - \text{ER lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of gross MWh of electricity generated during a control period by a project.

ER = Annual NO_x emission rate for the control Period based on CEMS data in 1b/MWh"

In Section 225.480, changes the 2nd sentence to "However, none of these allowances will be allocated.".

In Section 225.510(d)(1), changes the allowance transfer deadline to midnight of 11/30/09 and midnight of each subsequent year if 11/30 is a business day. If not, it will be midnight of the first business day thereafter. Specifies that the number of allowances held are those held on the allowance transfer deadline.

In Section 225.520(a)(3), deletes "and no CAIR NO_x Ozone Season compliance account may be established for a CAIR NO_x Ozone Season.".

In Section 225.535(c), changes "; otherwise it will be the unit's most recent control period's gross electrical output" to "If a unit commences commercial operation in the most recent control period and does not have gross electrical output from the most recent control period, e.g., if the unit commences commercial operation in 2009 and does not have gross electrical output from the 2008 control period, gross electrical output from the 2009 control period will be used.".

Changes Section 225.540(a) to:

"a) For the 2009 control period, and each control period thereafter, the Agency will allocate CAIR NO_x Ozone Season allowances to all CAIR NO_x Ozone Season units in Illinois for which the Agency has calculated the converted gross electrical output pursuant to Section 225.535(a), (b), or (c), or total converted gross electrical output pursuant to Section 225.535(d), as applicable, a total amount of CAIR NO_x Ozone Season allowances equal to tons of NO_x emissions in the CAIR NO_x Ozone Season Trading budget available for allocation as determined in Section 225.525 and, as adjusted to add allowances not allocated pursuant to subsection (b) of this Section in the previous year's allocation.".

Additionally, the Board made a number of nonsubstantive changes to the text of the rule to clarify the rule language and to ensure consistency within the rule and with the general style standards of the Board and the IAPA.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

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

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

15) Summary and Purpose of Amendments: A more detailed description of this rulemaking can be found in the Board's August 23, 2007 final opinion and order in docket R06-26.

The adopted amendments are intended to satisfy Illinois' obligations under USEPA's "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone; Revisions to Acid Rain Program; Revisions to the NO_x [nitrogen oxides] SIP [State Implementation Plan] Call" (federal CAIR), 70 Fed. Reg. 25162 (May 12, 2005). The amendments also address, in part, the State's obligation to meet federal Clean Air Act requirements for the control of fine particulate matter ($PM_{2.5}$) and ozone in the greater Chicago and Metro East/St. Louis nonattainment areas.

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

Richard McGill
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6983

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R06-26 in your request. The Board's opinions and orders are also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 225
CONTROL OF EMISSIONS FROM LARGE COMBUSTION SOURCES

SUBPART A: GENERAL PROVISIONS

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225.100 Severability
225.120 Abbreviations and Acronyms
225.130 Definitions
225.140 Incorporations by Reference
225.150 Commence Commercial Operation

SUBPART B: CONTROL OF MERCURY EMISSIONS
FROM COAL-FIRED ELECTRIC GENERATING UNITS

Section
225.200 Purpose
225.202 Measurement Methods
225.205 Applicability
225.210 Compliance Requirements
225.220 Clean Air Act Permit Program (CAAPP) Permit Requirements
225.230 Emission Standards for EGUs at Existing Sources
225.232 Averaging Demonstrations for Existing Sources
225.233 Multi-Pollutant Standard (MPS)
225.234 Temporary Technology-Based Standard for EGUs at Existing Sources
225.235 Units Scheduled for Permanent Shut Down
225.237 Emission Standards for New Sources with EGUs
225.238 Temporary Technology-Based Standard for New Sources with EGUs
225.240 General Monitoring and Reporting Requirements
225.250 Initial Certification and Recertification Procedures for Emissions Monitoring
225.260 Out of Control Periods for Emission Monitors
225.261 Additional Requirements to Provide Heat Input Data
225.263 Monitoring of Gross Electrical Output

225.265 Coal Analysis for Input Mercury Levels
225.270 Notifications
225.290 Recordkeeping and Reporting
225.295 Treatment of Mercury Allowances

SUBPART C: CLEAN AIR ACT INTERSTATE RULE (CAIR) SO_2 TRADING PROGRAM

Section
225.300 Purpose
225.305 Applicability
225.310 Compliance Requirements
225.315 Appeal Procedures
225.320 Permit Requirements
225.325 Trading Program

SUBPART D: CAIR NO_x ANNUAL TRADING PROGRAM

Section
225.400 Purpose
225.405 Applicability
225.410 Compliance Requirements
225.415 Appeal Procedures
225.420 Permit Requirements
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225.APPENDIX A Specified EGUs for Purposes of Subpart F (Midwest Generation's Coal-Fired Boilers as of July 1, 2006)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

SOURCE: Adopted in R06-25 at 31 Ill. Reg. 129, effective December 21, 2006; amended in R06-26 at 31 Ill. Reg. 12864, effective August 31, 2007.

SUBPART A: GENERAL PROVISIONS

Section 225.120 Abbreviations and Acronyms

Unless otherwise specified within this Part, the abbreviations used in this Part must be the same as those found in 35 Ill. Adm. Code 211. The following abbreviations and acronyms are used in this Part:

Act	Environmental Protection Act [415 ILCS 5]
ACI	activated carbon injection
Agency	Illinois Environmental Protection Agency
Btu	British thermal unit
CAA	Clean Air Act (42 USC 7401 et seq.)
CAAPP	Clean Air Act Permit Program
CAIR	Clean Air Interstate Rule
CASA	Clean Air Set-Aside
CEMS	continuous emission monitoring system
CO_2	carbon dioxide
CPS	Combined Pollutant Standard
CGO	converted gross electrical output
CUTE	converted useful thermal energy
EGU	electric generating unit
ESP	electrostatic precipitator
FGD	flue gas desulfurization
GO	gross electrical output
GWh	gigawatt hour
HI	heat input
hr	hour
kg	kilogram
lb	pound
MPS	Multi-Pollutant Standard
MW	megawatt
MWe	megawatt electrical

MWh	megawatt hour
NAAQS	National Ambient Air Quality Standards
NO_x	nitrogen oxides
NUSA	New Unit Set-Aside
ORIS	Office of Regulatory Information Systems
O_2	oxygen
$PM_{2.5}$	particles less than 2.5 micrometers in diameter
RATA	relative accuracy test audit
SO_2	sulfur dioxide
SNCR	selective noncatalytic reduction
TTBS	Temporary Technology Based Standard
TCGO	total converted useful thermal energy
UTE	useful thermal energy
USEPA	United States Environmental Protection Agency
yr	year

(Source: Amended at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.130 Definitions

The following definitions apply for the purposes of this Part. Unless otherwise defined in this Section or a different meaning for a term is clear from its context, the terms used in this Part have the meanings specified in 35 Ill. Adm. Code 211.

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

"Averaging demonstration" means, with regard to Subpart B of this Part, a demonstration of compliance that is based on the combined performance of EGUs at two or more sources.

"Base Emission Rate" means, for a group of EGUs subject to emission standards for NO_x and SO_2 pursuant to Section 225.233, the average emission rate of NO_x or SO_2 from the EGUs, in pounds per million Btu heat input, for calendar years 2003 through 2005 (or, for seasonal NO_x, the 2003 through 2005 ozone seasons), as determined from the data collected and quality assured by the USEPA, pursuant to the 40 CFR 72 and 96 federal Acid Rain and NO_x Budget Trading Programs, for the emissions and heat input of that group of EGUs.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"*Board" means the Illinois Pollution Control Board.* [415 ILCS 5/3.130]

"Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

"Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

"CAIR authorized account representative" means, for the purpose of general accounts, a responsible natural person who is authorized, in accordance with 40 CFR 96, subparts BB, FF, BBB, FFF, BBBB, and FFFF to transfer and otherwise dispose of CAIR NO_x, SO_2, and NO_x Ozone Season allowances, as applicable, held in the CAIR NO_x, SO_2, and NO_x Ozone Season general account, and for the purpose of a CAIR NO_x compliance account, a CAIR SO_2 compliance account, or a CAIR NO_x Ozone Season compliance account, the CAIR designated representative of the source.

"CAIR designated representative" means, for a CAIR NO_x source, a CAIR SO_2 source, and a CAIR NO_x Ozone Season source and each CAIR NO_x unit, CAIR SO_2 unit and CAIR NO_x Ozone Season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with 40 CFR 96, subparts BB, FF, BBB, FFF, BBBB, and FFFF as applicable, to represent and legally bind each owner and operator in matters pertaining to the CAIR NO_x Annual Trading Program, CAIR SO_2 Trading Program, and CAIR NO_x Ozone Season Trading Program, as applicable. For any unit that is subject to one or more of the following programs: CAIR NO_x Annual Trading Program, CAIR SO_2 Trading Program, CAIR NO_x Ozone Season Trading Program, or the federal Acid Rain Program, the designated representative for the unit must be the same natural person for all programs applicable to the unit.

"Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing and Materials (ASTM) Standard Specification for Classification of Coals by Rank D388-77, 90, 91, 95, 98a, or 99 (Reapproved 2004).

"Coal-derived fuel" means any fuel (whether in a solid, liquid or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

"Coal-fired" means:

For purposes of Subparts B and F, or for purposes of allocating allowances under Sections 225.435, 225.445, 225.535, and 225.545, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year;.

Except as provided above, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel.

"Cogeneration unit" means, for the purposes of Subparts C, D, and E, a stationary, fossil fuel-fired boiler or a stationary, fossil fuel-fired combustion turbine of which both of the following conditions are true:

It uses equipment to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and

It produces either of the following during the 12-month period beginning on the date the unit first produces electricity and during any subsequent calendar year after that in which the unit first produces electricity:

For a topping-cycle cogeneration unit, both of the following:

Useful thermal energy not less than five percent of total energy output; and

Useful power that, when added to one-half of useful thermal energy produced, is not less than 42.5 percent of total energy input, if useful thermal energy produced is 15 percent or more of total energy output, or not less than 45 percent of total energy input if useful thermal energy produced is less than 15 percent of total energy output; or

For a bottoming-cycle cogeneration unit, useful power not less than 45 percent of total energy input.

"Combined cycle system" means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

"Combustion turbine" means:

An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

If the enclosed device described in~~under~~ the above paragraph of this definition is combined cycle, any associated duct burner, heat recovery steam generator and steam turbine.

"Commence commercial operation" means, for the purposes of Subparts B and F~~Subpart B~~ of this Part, with regard to an EGU that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. Such date must remain the unit's date of commencement of operation even if the EGU is subsequently modified, reconstructed or repowered. For the purposes of Subparts C, D and E, "commence commercial operation" is as defined in Section 225.150.

"Commence construction" means, for the purposes of Section 225.460(f), 225.470, 225.560(f), and 225.570, that the owner or owner's designee has obtained all necessary preconstruction approvals (e.g., zoning) or permits and either has:

Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

For purposes of this definition:

"Construction" shall be determined as any physical change or change in the method of operation, including but not limited to

fabrication, erection, installation, demolition, or modification of projects eligible for CASA allowances, as set forth in Sections 225.460 and 225.560.

"A reasonable time" shall be determined considering but not limited to the following factors: the nature and size of the project, the extent of design engineering, the amount of off-site preparation, whether equipment can be fabricated or can be purchased, when the project begins (considering both the seasonal nature of the construction activity and the existence of other projects competing for construction labor at the same time, the place of the environmental permit in the sequence of corporate and overall governmental approval), and the nature of the project sponsor (e.g., private, public, regulated).

"Commence operation", for purposes of Subparts C, D and E, means:

To have begun any mechanical, chemical, or electronic process, including, for the purpose of a unit, start-up of a unit's combustion chamber, except as provided in 40 CFR 96.105, 96.205, or 96.305, as incorporated by reference in Section 225.140.

For a unit that undergoes a physical change (other than replacement of the unit by a unit at the same source) after the date the unit commences operation as set forth in the first paragraph of this definition, such date will remain the date of commencement of operation of the unit, which will continue to be treated as the same unit.

For a unit that is replaced by a unit at the same source (e.g., repowered), after the date the unit commences operation as set forth in the first paragraph of this definition, such date will remain the replaced unit's date of commencement of operation, and the replacement unit will be treated as a separate unit with a separate date for commencement of operation as set forth in this definition as appropriate.

"Common stack" means a single flue through which emissions from two or more units are exhausted.

"Compliance account" means:

For the purposes of Subparts D and E, a CAIR NO_x Allowance Tracking System account, established by the USEPA for a CAIR NO_x source or CAIR NO_x Ozone Season source pursuant to 40 CFR 96, subparts FF and FFFF in which any CAIR NO_x allowance or CAIR NO_x Ozone Season allowance allocations for the CAIR NO_x units or CAIR NO_x Ozone Season units at the source are initially recorded and in which are held any CAIR NO_x or CAIR NO_x Ozone Season allowances available for use for a control period in order to meet the source's CAIR NO_x or CAIR NO_x Ozone Season emissions limitations in accordance with Sections 225.410 and 225.510, and 40 CFR 96.154 and 96.354, as incorporated by reference in Section 225.140. CAIR NO_x allowances may not be used for compliance with the CAIR NO_x Ozone Season Trading Program and CAIR NO_x Ozone Season allowances may not be used for compliance with the CAIR NO_x Annual Trading Program; or

For the purposes of Subpart C, a "compliance account" means a CAIR SO_2 compliance account, established by the USEPA for a CAIR SO_2 source pursuant to 40 CFR 96, subpart FFF, in which any SO_2 units at the source are initially recorded and in which are held any SO_2 allowances available for use for a control period in order to meet the source's CAIR SO_2 emissions limitations in accordance with Section 225.310 and 40 CFR 96.254, as incorporated by reference in Section 225.140.

"Control period" means:

For the CAIR SO_2 and NO_x Annual Trading Programs in Subparts C and D, the period beginning January 1 of a calendar year, except as provided in Sections 225.310(d)(3) and 225.410(d)(3), and ending on December 31 of the same year, inclusive; or

For the CAIR NO_x Ozone Season Trading Program in Subpart E, the period beginning May 1 of a calendar year, except as provided in Section 225.510(d)(3), and ending on September 30 of the same year, inclusive.

"Designated representative" means, for the purposes of Subpart B of this Part, the natural person~~same~~ as defined in 40 CFR 60.4102, and is the same natural person as the person who is the designated representative for the CAIR trading and Acid Rain programs.

"Electric generating unit" or "EGU" means a fossil fuel-fired stationary boiler, combustion turbine or combined cycle system that serves a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

"Flue" means a conduit or duct through which gases or other matter is exhausted to the atmosphere.

"Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

"Fossil fuel-fired" means the combusting of any amount of fossil fuel, alone or in combination with any other fuel in any calendar year.

"Generator" means a device that produces electricity.

"Gross electrical output" means the total electrical output from an EGU before making any deductions for energy output used in any way related to the production of energy. For an EGU generating only electricity, the gross electrical output is the output from the turbine/generator set.

"Heat input" means, for the purposes of Subparts C, D, and E, a specified period of time, the product (in mmBtu/hr) of the gross calorific value of the fuel (in Btu/lb) divided by 1,000,000 Btu/mmBtu and multiplied by the fuel feed rate into a combustion device (in lb of fuel/time), as measured, recorded and reported to USEPA by the CAIR designated representative and determined by USEPA in accordance with 40 CFR 96, subpart HH, HHH, or HHHH, if applicable, and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

"Higher heating value" or "HHV" means the total heat liberated per mass of fuel burned (Btu/lb), when fuel and dry air at standard conditions undergo complete combustion and all resultant products are brought to their standard states at standard conditions.

"Input mercury" means the mass of mercury that is contained in the coal combusted within an EGU.

"Integrated gasification combined cycle" or "IGCC" means a coal-fired electric utility steam generating unit that burns a synthetic gas derived from coal in a combined-cycle gas turbine. No coal is directly burned in the unit during operation.

"Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady-state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady-state basis and during continuous operation (when not restricted by seasonal or other deratings), such increased maximum amount as of completion as specified by the person conducting the physical change.

"Oil-fired unit" means a unit combusting fuel oil for more than 15.0 percent of the annual heat input in a specified year and not qualifying as coal-fired.

"Output-based emission standard" means, for the purposes of Subpart B of this Part, a maximum allowable rate of emissions of mercury per unit of gross electrical output from an EGU.

"Potential electrical output capacity" means 33 percent of a unit's maximum design heat input, expressed in mmBtu/hr divided by 3.413 mmBtu/MWh, and multiplied by 8,760 hr/yr.

"Project sponsor" means a person or an entity, including but not limited to the owner or operator of an EGU or a not-for-profit group, that provides the majority of funding for an energy efficiency and conservation, renewable energy, or clean technology project as listed in Sections 225.460 and 225.560, unless another person or entity is designated by a written agreement as the project sponsor for the purpose of applying for NO_x allowances or NO_x Ozone Season allowances from the CASA.

"Rated-energy efficiency" means the percentage of thermal energy input that is recovered as useable energy in the form of gross electrical output, useful thermal energy, or both that is used for heating, cooling, industrial processes, or other beneficial uses as follows:

For electric generators, rated-energy efficiency is calculated as one kilowatt hour (3,413 Btu) of electricity divided by the unit's design heat rate using the higher heating value of the fuel, and expressed as a percentage.

For combined heat and power projects, rated-energy efficiency is calculated using the following formula:

$$REE = ((GO + UTE)/HI) \times 100$$

Where:

REE = Rated-energy efficiency, expressed as percentage.

GO = Gross electrical output of the system expressed in Btu/hr.

UTE = Useful thermal output from the system that is used for heating, cooling, industrial processes or other beneficial uses, expressed in Btu/hr.

HI = Heat input, based upon the higher heating value of fuel, in Btu/hr.

"Repowered" means, for the purposes of an EGU, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler:

Atmospheric or pressurized fluidized bed combustion;

Integrated gasification combined cycle;

Magnetohydrodynamics;

Direct and indirect coal-fired turbines;

Integrated gasification fuel cells; or

As determined by the USEPA in consultation with the United States Department of Energy, a derivative of one or more of the technologies under this definition and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved

boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

"Rolling 12-month basis" means, for the purposes of Subparts B and F~~Subpart B~~ of this Part, a determination made on a monthly basis from the relevant data for a particular calendar month and the preceding 11 calendar months (total of 12 months of data), with two exceptions. For determinations involving one EGU, calendar months in which the EGU does not operate (zero EGU operating hours) must not be included in the determination, and must be replaced by a preceding month or months in which the EGU does operate, so that the determination is still based on 12 months of data. For determinations involving two or more EGUs, calendar months in which none of the EGUs covered by the determination operates (zero EGU operating hours) must not be included in the determination, and must be replaced by preceding months in which at least one of the EGUs covered by the determination does operate, so that the determination is still based on 12 months of data.

"Total energy output" means, with respect to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

"Useful thermal energy" means, for the purpose of a cogeneration unit, the thermal energy that is made available to an industrial or commercial process, excluding any heat contained in condensate return or makeup water:

Used in a heating application (e.g., space heating or domestic hot water heating); or

Used in a space cooling application (e.g., thermal energy used by an absorption chiller).

(Source: Amended at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.140 Incorporations by Reference

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions.

a) 40 CFR 60, 60.17, 60.45a, 60.49a(k)(1) and (p), 60.50a(h), and 60.4170 through 60.4176 (2005).

b) 40 CFR 75 (2006~~2005~~).

c) 40 CFR 78 (2006).

d) 40 CFR 96, CAIR SO_2 Trading Program, subparts AAA (excluding 40 CFR 96.204 and 96.206), BBB, FFF, GGG, and HHH (2006).

e) 40 CFR 96, CAIR NO_x Annual Trading Program, subparts AA (excluding 40 CFR 96.104, 96.105(b)(2), and 96.106), BB, FF, GG, and HH (2006).

f) 40 CFR 96, CAIR NO_x Ozone Season Trading Program, subparts AAAA (excluding 40 CFR 96.304, 96.305(b)(2), and 96.306), BBBB, FFFF, GGGG, and HHHH (2006).

g~~e~~) ASTM. The following methods from the American Society for Testing and Materials, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken PA 19428-2959, (610) 832-9585:

1) ASTM D388-77 (approved February 25, 1977), D388-90 (approved March 30, 1990), D388-91a (approved April 15, 1991), D388-95 (approved January 15, 1995), D388-98a (approved September 10, 1998), or D388-99 (approved September 10, 1999, reapproved in 2004), Classification of Coals by Rank.

2) ASTM D3173-03, Standard Test Method for Moisture in the Analysis Sample of Coal and Coke (Approved April 10, 2003).

3) ASTM D3684-01, Standard Test Method for Total Mercury in Coal by the Oxygen Bomb Combustion/Atomic Absorption Method (Approved October 10, 2001).

4) ASTM D5865-04, Standard Test Method for Gross Calorific Value of Coal and Coke (Approved April 1, 2004).

5) ASTM D6414-01, Standard Test Method for Total Mercury in Coal and Coal Combustion Residues by Acid Extraction or Wet Oxidation/Cold Vapor Atomic Absorption (Approved October 10, 2001).

6) ASTM D6784-02, Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method) (Approved April 10, 2002).

h) Federal Energy Management Program, M&V Guidelines: Measurement and Verification for Federal Energy Projects, US Department of Energy, Office of Energy Efficiency and Renewable Energy, Version 2.2, DOE/GO-102000-0960 (September 2000).

(Source: Amended at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.150 Commence Commercial Operation

Commence commercial operation means, for the purposes of Subparts C, D and E, with regard to a unit:

a) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in 40 CFR 96.105, 96.205, or 96.305, as incorporated by reference in Section 225.140.

1) For a unit that is a CAIR SO_2 unit, CAIR NO_x unit, or a CAIR NO_x Ozone Season unit pursuant to Sections 225.305, 225.405, and 225.505, respectively, on the date the unit commences commercial operation on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subsection (a) of this Section and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date will remain the unit's date of commencement of commercial operation, which will continue to be treated as the same unit.

2) For a unit that is a CAIR SO_2 unit, CAIR NO_x unit, or a CAIR NO_x Ozone Season unit pursuant to Sections 225.305, 225.405, and 225.505, respectively, on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subsection (a) of this Section and that is subsequently replaced by a unit at the same source (e.g.,

repowered), such date will remain the replaced unit's date of commencement of commercial operation, and the replacement unit will be treated as a separate unit with a separate date for commencement of commercial operation as defined in subsection (a) or (b) of this Section as appropriate.

b) Notwithstanding subsection (a) of this Section and except as provided in 40 CFR 96.105, 96.205, or 96.305 for a unit that is not a CAIR SO_2 unit, CAIR NO_x unit, or a CAIR NO_x Ozone Season unit pursuant to Section 225.305, 225.405, or 225.505, respectively, on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subsection (a) of this Section, the unit's date for commencement of commercial operation will be the date on which the unit becomes a CAIR SO_2 unit, CAIR NO_x unit, or CAIR NO_x Ozone Season unit pursuant to Section 225.305, 225.405, or 225.505, respectively.

1) For a unit with a date for commencement of commercial operation as defined in subsection (b) of this Section and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date will remain the unit's date of commencement of commercial operation, which shall continue to be treated as the same unit.

2) For a unit with a date for commencement of commercial operation as defined in subsection (b) of this Section and that is subsequently replaced by a unit at the same source (e.g., repowered), such date will remain the replaced unit's date of commencement of commercial operation, and the replacement unit will be treated as a separate unit with a separate date for commencement of commercial operation as defined in subsection (a) or (b) of this Section as appropriate.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

SUBPART C: CLEAN AIR ACT INTERSTATE RULE (CAIR) SO_2 TRADING PROGRAM

Section 225.300 Purpose

The purpose of this Subpart C is to control the emissions of sulfur dioxide (SO_2) from EGUs annually by implementing the CAIR SO_2 Trading Program pursuant to 40 CFR 96, as incorporated by reference in Section 225.140.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.305 Applicability

a) Except as provided in subsections (b)(1), (b)(3), and (b)(4) of this Section:

1) The following units are CAIR SO_2 units, and any source that includes one or more such units is a CAIR SO_2 source subject to the requirements of this Subpart C: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2) If a stationary boiler or stationary combustion turbine that, pursuant to subsection (a)(1) of this Section, is not a CAIR SO_2 unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit will become a CAIR SO_2 unit as provided in subsection (a)(1) of this Section on the first date on which it both combusts fossil fuel and serves such generator.

b) The units that meet the requirements set forth in subsections (b)(1), (b)(3), and (b)(4) of this Section will not be CAIR SO_2 units and units that meet the requirements of subsections (b)(2) and (b)(5) of this Section are CAIR SO_2 units:

1) Any unit that would otherwise be classified as a CAIR SO_2 unit pursuant to subsection (a)(1) or (a)(2) of this Section and:

A) Qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continues to qualify as a cogeneration unit; and

B) Does not serve at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution for sale.

2) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and meets the requirements of subsection (b)(1) of this Section for at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO_2 unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subsection (b)(1)(B) of this Section.

3) Any unit that would otherwise be classified as a CAIR SO_2 unit pursuant to subsection (a)(1) or (a)(2) of this Section commencing operation before January 1, 1985 and:

A) Qualifies as a solid waste incineration unit; and

B) Has an average annual fuel consumption of non-fossil fuel for 1985-1987 exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

4) Any unit that would otherwise be classified as a CAIR SO_2 unit under subsection (a)(1) or (a)(2) of this Section commencing operation on or after January 1, 1985 and:

A) Qualifies as a solid waste incineration unit; and

B) Has an average annual fuel consumption of non-fossil fuel the first three years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

5) If a unit qualifies as a solid waste incineration unit and meets the requirements of subsection (b)(3) or (b)(4) of this Section for at least three consecutive years, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO_2 unit starting on the

earlier of January 1 after the first three consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of 20 percent or more.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.310 Compliance Requirements

a) The designated representative of a CAIR SO_2 unit must comply with the requirements of the CAIR SO_2 Trading Program for Illinois as set forth in this Subpart C and 40 CFR 96, subpart AAA (CAIR SO_2 Trading Program General Provisions, excluding 40 CFR 96.204, and 96.206); 40 CFR 96, subpart BBB (CAIR Designated Representative for CAIR SO_2 Sources); 40 CFR 96, subpart FFF (CAIR SO_2 Allowance Tracking System); 40 CFR 96, subpart GGG (CAIR SO_2 Allowance Transfers); and 40 CFR 96, subpart HHH (Monitoring and Reporting); as incorporated by reference in Section 225.140 .

b) Permit requirements:

1) The owner or operator of each source with one or more CAIR SO_2 units at the source must apply for a permit issued by the Agency with federally enforceable conditions covering the CAIR SO_2 Trading Program ("CAIR permit") that complies with the requirements of Section 225.320 (Permit Requirements).

2) The owner or operator of each CAIR SO_2 source and each CAIR SO_2 unit at the source must operate the CAIR SO_2 unit in compliance with its CAIR permit.

c) Monitoring requirements:

1) The owner or operator of each CAIR SO_2 source and each CAIR SO_2 unit at the source must comply with the monitoring, reporting and recordkeeping requirements of 40 CFR 96, subpart HHH. The CAIR designated representative of each CAIR SO_2 source and each CAIR SO_2 unit at the CAIR SO_2 source must comply with those sections of the monitoring, reporting and recordkeeping requirements of 40 CFR 96, subpart HHH, applicable to the CAIR designated representative.

2) The compliance of each CAIR SO_2 source with the emissions limitation pursuant to subsection (d) of this Section will be determined by the emissions measurements recorded and reported in accordance with 40 CFR 96, subpart HHH and 40 CFR 75.

d) Emission requirements:

1) By the allowance transfer deadline, midnight of March 1, 2010, and by midnight of March 1 of each subsequent year if March 1 is a business day, the owner or operator of each CAIR SO_2 source and each CAIR SO_2 unit at the source must hold a tonnage equivalent in CAIR SO_2 allowances available for compliance deductions pursuant to 40 CFR 96.254(a) and (b) in the CAIR SO_2 source's CAIR SO_2 compliance account. If March 1 is not a business day, the allowance transfer deadline means by midnight of the first business day thereafter. The number of allowances held on the allowance transfer deadline may not be less than the total tonnage equivalent of the tons of SO_2 emissions for the control period from all CAIR SO_2 units at the CAIR SO_2 source, as determined in accordance with 40 CFR 96, subpart HHH.

2) Each ton of excess emissions of SO_2 emitted by a CAIR SO_2 source for each day of a control period, starting in 2010 will constitute a separate violation of this Subpart C, the Clean Air Act, and the Act.

3) Each CAIR SO_2 unit will be subject to the requirements of subsection (d)(1) of this Section for the control period starting on the later of January 1, 2010 or the deadline for meeting the unit's monitoring certification requirements pursuant to 40 CFR 96.270(b)(1) or (2) and for each control period thereafter.

4) CAIR SO_2 allowances must be held in, deducted from, or transferred into or among allowance accounts in accordance with this Subpart and 40 CFR 96, subparts FFF and GGG.

5) In order to comply with the requirements of subsection (d)(1) of this Section, a CAIR SO_2 allowance may not be deducted for compliance according to subsection (d)(1) of this Section for a control period in a calendar year before the year for which the allowance is allocated.

6) A CAIR SO_2 allowance is a limited authorization to emit SO_2 in accordance with the CAIR SO_2 Trading Program. No provision of the CAIR SO_2 Trading Program, the CAIR permit application, the CAIR permit, or a retired unit exemption pursuant to 40 CFR 96.205, and no provision of law, will be construed to limit the authority of the United States or the State to terminate or limit this authorization.

7) A CAIR SO_2 allowance does not constitute a property right.

8) Upon recordation by USEPA pursuant to 40 CFR 96 subpart FFF or subpart GGG, every allocation, transfer, or deduction of a CAIR SO_2 allowance to or from a CAIR SO_2 source's compliance account is deemed to amend automatically, and become a part of, any CAIR permit of the CAIR SO_2 source. This automatic amendment of the CAIR permit will be deemed an operation of law and will not require any further review.

e) Recordkeeping and reporting requirements:

1) Unless otherwise provided, the owner or operator of the CAIR SO_2 source and each CAIR SO_2 unit at the source must keep on site at the source each of the documents listed in subsections (e)(1)(A) through (e)(1)(D) of this Section for a period of five years from the date the document is created. This period may be extended for cause, at any time prior to the end of five years, in writing by the Agency or USEPA.

A) The certificate of representation for the CAIR designated representative for the source and each CAIR SO_2 unit at the source, all documents that demonstrate the truth of the statements in the certificate of representation, provided that the certificate and documents must be retained on site at the source beyond such five-year period until the documents are superseded because of the submission of a new certificate of representation, pursuant to 40 CFR 96.213, changing the CAIR designated representative.

B) All emissions monitoring information, in accordance with 40 CFR 96, subpart HHH.

C) Copies of all reports, compliance certifications, and other submissions and all records made or required pursuant to the CAIR

SO_2 Trading Program or documents necessary to demonstrate compliance with the requirements of the CAIR SO_2 Trading Program or with the requirements of this Subpart C.

D) Copies of all documents used to complete a CAIR permit application and any other submission or documents used to demonstrate compliance pursuant to the CAIR SO_2 Trading Program.

2) The CAIR designated representative of a CAIR SO_2 source and each CAIR SO_2 unit at the source must submit to the Agency and USEPA the reports and compliance certifications required pursuant to the CAIR SO_2 Trading Program, including those pursuant to 40 CFR 96, subpart HHH.

f) Liability:

1) No revision of a permit for a CAIR SO_2 unit may excuse any violation of the requirements of this Subpart C or the requirements of the CAIR SO_2 Trading Program.

2) Each CAIR SO_2 source and each CAIR SO_2 unit must meet the requirements of the CAIR SO_2 Trading Program.

3) Any provision of the CAIR SO_2 Trading Program that applies to a CAIR SO_2 source (including any provision applicable to the CAIR designated representative of a CAIR SO_2 source) will also apply to the owner and operator of the CAIR SO_2 source and to the owner and operator of each CAIR SO_2 unit at the source.

4) Any provision of the CAIR SO_2 Trading Program that applies to a CAIR SO_2 unit (including any provision applicable to the CAIR designated representative of a CAIR SO_2 unit) will also apply to the owner and operator of the CAIR SO_2 unit.

5) The CAIR designated representative of a CAIR SO_2 unit that has excess SO_2 emissions in any control period must surrender the allowances as required for deduction pursuant to 40 CFR 96.254(d)(1).

6) The owner or operator of a CAIR SO_2 unit that has excess SO_2 emissions in any control period must pay any fine, penalty, or assessment or comply with any other remedy imposed pursuant to the Act and 40 CFR 96.254(d)(2).

g) Effect on other authorities: No provision of the CAIR SO_2 Trading Program, a CAIR permit application, a CAIR permit, or a retired unit exemption pursuant to 40 CFR 96.205 will be construed as exempting or excluding the owner and operator and, to the extent applicable, the CAIR designated representative of a CAIR SO_2 source or a CAIR SO_2 unit from compliance with any other regulation promulgated pursuant to the CAA, the Act, any State regulation or permit, or a federally enforceable permit.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.315 Appeal Procedures

The appeal procedures for decisions of USEPA pursuant to the CAIR SO_2 Trading Program are set forth in 40 CFR 78, as incorporated by reference in Section 225.140.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.320 Permit Requirements

a) Permit requirements:

1) The owner or operator of each source with a CAIR SO_2 unit is required to submit:

A) A complete permit application addressing all applicable CAIR SO_2 Trading Program requirements for a permit meeting the requirements of this Section, applicable to each CAIR SO_2 unit at the source. Each CAIR permit must contain elements required for a complete CAIR permit application pursuant to subsection (b)(2) of this Section.

B) Any supplemental information that the Agency determines is necessary in order to review a CAIR permit application and issue a CAIR permit.

2) Each CAIR permit will be issued pursuant to Section 39 or 39.5 of the Act, must contain federally enforceable conditions addressing all applicable CAIR SO_2 Trading Program requirements, and will be a complete and segregable portion of the source's entire permit pursuant to subsection (a)(1) of this Section.

3) No CAIR permit may be issued until the Agency and USEPA have received a complete certificate of representation for a CAIR designated representative or alternate designated representative pursuant to 40 CFR 96, subpart BBB, for a source and the CAIR SO_2 unit at the source.

4) For all CAIR SO_2 units that commenced operation before July 1, 2008, the owner or operator of the unit must submit a CAIR permit application meeting the requirements of this Section on or before July 1, 2008.

5) For CAIR SO_2 units that commence operation on or after July 1, 2008, and that are and are not subject to Section 39.5 of the Act, the owner or operator of such units must submit applications for construction and operating permits pursuant to the requirements of Sections 39 and 39.5 of the Act, as applicable, and 35 Ill. Adm. Code 201 and the applications must specify that they are applying for CAIR permits and must address the CAIR permit application requirements of this Section.

b) Permit applications:

1) Duty to apply: The owner or operator of any source with one or more CAIR SO_2 units must submit to the Agency a CAIR permit application for the source covering each CAIR SO_2 unit pursuant to subsection (b)(2) of this Section by the applicable deadline in subsection (a)(4) or (a)(5) of this Section. The owner or operator of any source with one or more CAIR SO_2 units must reapply for a CAIR permit for the source as required by this Subpart, 35 Ill. Adm. Code 201, and, as applicable, Sections 39 and 39.5 of the Act.

2) Information requirements for CAIR permit applications: A complete CAIR permit application must include the following elements concerning the source for which the application is submitted:

A) Identification of the source, including plant name. The ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration must also be included, if applicable;

B) Identification of each CAIR SO_2 unit at the source; and

C) The compliance requirements applicable to each CAIR SO_2 unit as set forth in Section 225.310.

3) An application for a CAIR permit will be treated as a modification of the CAIR SO_2 source's existing federally enforceable permit, if such a permit has been issued for that CAIR SO_2 source, and will be subject to the same procedural requirements. When the Agency issues a CAIR permit pursuant to the requirements of this Section, it will be incorporated into and become part of that CAIR SO_2 source's existing federally enforceable permit.

c) Permit content: Each CAIR permit is deemed to incorporate automatically the definitions and terms specified in 225.130 and 40 CFR 96.202, as incorporated by reference in Section 225.140 and, upon recordation of USEPA under 40 CFR 96, subparts FFF and GGG, as incorporated by reference in Section 225.140, every allocation, transfer, or deduction of a CAIR SO_2 allowance to or from the compliance account of the CAIR SO_2 source covered by the permit.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.325 Trading Program

a) The CAIR SO_2 Trading Program is administered by USEPA. CAIR SO_2 allowances are issued as described by the definition for allocate in 40 CFR 96.202, as incorporated by reference in Section 225.140. The amount of CAIR SO_2 allowances to be credited to a CAIR SO_2 source's CAIR SO_2 Allowance Tracking System account for a CAIR SO_2 unit will be determined in accordance with 40 CFR 96.253, as incorporated by reference in Section 225.140.

b) A CAIR SO_2 allowance is a limited authorization to emit SO_2 during the calendar year for which the allowance is allocated or any calendar year thereafter pursuant to the CAIR SO_2 Trading Program as follows:

1) For one CAIR SO_2 allowance allocated for a control period in a year before 2010, one ton of SO_2, except as provided for in the compliance deductions pursuant to 40 CFR 96.254(b);

2) For one CAIR SO_2 allowance allocated for a control period in 2010 through 2014, 0.50 ton of SO_2, except as provided for in the compliance deductions pursuant to 40 CFR 96.254(b); and

3) For one CAIR SO_2 allowance allocated for a control period in 2015 or later, 0.35 ton of SO_2, except as provided for in the compliance deductions pursuant to 40 CFR 96.254(b).

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

SUBPART D: CAIR NO_x ANNUAL TRADING PROGRAM

Section 225.400 Purpose

The purpose of this Subpart D is to control the annual emissions of nitrogen oxides (NO_x) from EGUs by determining allocations and implementing the CAIR NO_x Annual Trading Program.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.405 Applicability

a) Except as provided in subsections (b)(1), (b)(3), and (b)(4) of this Section:

1) The following units are CAIR NO_x units, and any source that includes one or more such units is a CAIR NO_x source subject to the requirements of this Subpart D: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2) If a stationary boiler or stationary combustion turbine that, pursuant to subsection (a)(1) of this Section, is not a CAIR NO_x unit begins to combust fossil fuel or to serve a generator with nameplate capacity of

more than 25 MWe producing electricity for sale, the unit will become a CAIR NO_x unit as provided in subsection (a)(1) of this Section on the first date on which it both combusts fossil fuel and serves such generator.

b) The units that meet the requirements set forth in subsections (b)(1), (b)(3), and (b)(4) of this Section will not be CAIR NO_x units and units that meet the requirements of subsections (b)(2) and (b)(5) of this Section are CAIR NO_x units:

1) Any unit that would otherwise be classified as a CAIR NO_x unit pursuant to subsection (a)(1) or (a)(2) of this Section and:

A) Qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continues to qualify as a cogeneration unit; and

B) Does not serve at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution for sale.

2) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and meets the requirements of subsection (b)(1) of this Section for at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subsection (b)(1)(B) of this Section.

3) Any unit that would otherwise be classified as a CAIR NO_x unit pursuant to subsection (a)(1) or (a)(2) of this Section commencing operation before January 1, 1985 and:

A) Qualifies as a solid waste incineration unit; and

B) Has an average annual fuel consumption of non-fossil fuel for 1985-1987 exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

4) Any unit that would otherwise be classified as a CAIR NO_x unit under subsection (a)(1) or (a)(2) of this Section commencing operation on or after January 1, 1985 and:

A) Qualifies as a solid waste incineration unit; and

B) Has an average annual fuel consumption of non-fossil fuel the first three years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

5) If a unit qualifies as a solid waste incineration unit and meets the requirements of subsection (b)(3) or (b)(4) of this Section for at least three consecutive years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x unit starting on the earlier of January 1 after the first three consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of 20 percent or more.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.410 Compliance Requirements

a) The designated representative of a CAIR NO_x unit must comply with the requirements of the CAIR NO_x Annual Trading Program for Illinois as set forth in this Subpart D and 40 CFR 96, subpart AA (NO_x Annual Trading Program General Provisions, excluding 40 CFR 96.104, 96.105(b)(2), and 96.106); 40 CFR 96, subpart BB (CAIR Designated Representative for CAIR NO_x Sources); 40 CFR 96, subpart FF (CAIR NO_x Allowance Tracking System); 40 CFR 96, subpart GG (CAIR NO_x Allowance Transfers); and 40 CFR 96, subpart HH (Monitoring and Reporting); as incorporated by reference in Section 225.140.

b) Permit requirements:

1) The designated representative of each source with one or more CAIR NO_x units at the source must apply for a permit issued by the Agency with federally enforceable conditions covering the CAIR NO_x Annual Trading Program ("CAIR permit") that complies with the requirements of Section 225.420 (Permit Requirements).

2) The owner or operator of each CAIR NO_x source and each CAIR NO_x unit at the source must operate the CAIR NO_x unit in compliance with its CAIR permit.

c) Monitoring requirements:

1) The owner or operator of each CAIR NO_x source and each CAIR NO_x unit at the source must comply with the monitoring, reporting and recordkeeping requirements of 40 CFR 96, subpart HH and Section 225.450. The CAIR designated representative of each CAIR NO_x source and each CAIR NO_x unit at the CAIR NO_x source must comply with those sections of the monitoring, reporting and recordkeeping requirements of 40 CFR 96, subpart HH, applicable to a CAIR designated representative.

2) The compliance of each CAIR NO_x source with the NO_x emissions limitation pursuant to subsection (d) of this Section will be determined by the emissions measurements recorded and reported in accordance with 40 CFR 96, subpart HH.

d) Emission requirements:

1) By the allowance transfer deadline, midnight of March 1, 2010, and by midnight March 1 of each subsequent year if March 1 is a business day, the owner or operator of each CAIR NO_x source and each CAIR NO_x unit at the source must hold CAIR NO_x allowances available for compliance deductions pursuant to 40 CFR 96.154(a) in the CAIR NO_x source's CAIR NO_x compliance account. If March 1 is not a business day, the allowance transfer deadline means by midnight of the first business day thereafter. The number of allowances held on the allowance transfer deadline may not be less than the tons of NO_x emissions for the control period from all CAIR NO_x units at the source, as determined in accordance with 40 CFR

96, subpart HH.

2) Each ton of excess emissions of a CAIR NO_x source for each day in a control period, starting in 2009, will constitute a separate violation of this Subpart D, the Act, and the CAA.

3) Each CAIR NO_x unit will be subject to the requirements of subsection (d)(1) of this Section for the control period starting on the later of January 1, 2009 or the deadline for meeting the unit's monitoring certification requirements pursuant to 40 CFR 96.170(b)(1) or (b)(2) and for each control period thereafter.

4) CAIR NO_x allowances must be held in, deducted from, or transferred into or among allowance accounts in accordance with this Subpart and 40 CFR 96, subparts FF and GG.

5) In order to comply with the requirements of subsection (d)(1) of this Section, a CAIR NO_x allowance may not be deducted for compliance according to subsection (d)(1) of this Section for a control period in a year before the calendar year for which the allowance is allocated.

6) A CAIR NO_x allowance is a limited authorization to emit one ton of NO_x in accordance with the CAIR NO_x Trading Program. No provision of the CAIR NO_x Trading Program, the CAIR NO_x permit application, the CAIR permit, or a retired unit exemption pursuant to 40 CFR 96.105, and no provision of law, will be construed to limit the authority of the United States or the State to terminate or limit this authorization.

7) A CAIR NO_x allowance does not constitute a property right.

8) Upon recordation by USEPA pursuant to 40 CFR 96, subpart FF or subpart GG, every allocation, transfer, or deduction of a CAIR NO_x allowance to or from a CAIR NO_x source compliance account is deemed to amend automatically, and become a part of, any CAIR NO_x permit of the CAIR NO_x source. This automatic amendment of the CAIR permit will be deemed an operation of law and will not require any further review.

e) Recordkeeping and reporting requirements:

1) Unless otherwise provided, the owner or operator of the CAIR NO_x source and each CAIR NO_x unit at the source must keep on site at the source each of the documents listed in subsections (e)(1)(A) through (e)(1)(E) of this Section for a period of five years from the date the document is created. This period may be extended for cause, at any time prior to the end of five years, in writing by the Agency or USEPA.

A) The certificate of representation for the CAIR designated representative for the source and each CAIR NO_x unit at the source, all documents that demonstrate the truth of the statements in the certificate of representation, provided that the certificate and documents must be retained on site at the source beyond such five-year period until the documents are superseded because of the submission of a new certificate of representation, pursuant to 40 CFR 96.113, changing the CAIR designated representative.

B) All emissions monitoring information, in accordance with 40 CFR 96, subpart HH.

C) Copies of all reports, compliance certifications, and other submissions and all records made or required pursuant to the CAIR NO_x Annual Trading Program or documents necessary to demonstrate compliance with the requirements of the CAIR NO_x Annual Trading Program or with the requirements of this Subpart D.

D) Copies of all documents used to complete a CAIR NO_x permit application and any other submission or documents used to demonstrate compliance pursuant to the CAIR NO_x Annual Trading Program.

E) Copies of all records and logs for gross electrical output and useful thermal energy required by Section 225.450.

2) The CAIR designated representative of a CAIR NO_x source and each CAIR NO_x unit at the source must submit to the Agency and USEPA the reports and compliance certifications required pursuant to the CAIR NO_x Annual Trading Program, including those pursuant to 40 CFR 96, subpart

HH.

f) Liability:

1) No revision of a permit for a CAIR NO_x unit may excuse any violation of the requirements of this Subpart D or the requirements of the CAIR NO_x Annual Trading Program.

2) Each CAIR NO_x source and each CAIR NO_x unit must meet the requirements of the CAIR NO_x Annual Trading Program.

3) Any provision of the CAIR NO_x Annual Trading Program that applies to a CAIR NO_x source (including any provision applicable to the CAIR designated representative of a CAIR NO_x source) will also apply to the owner and operator of the CAIR NO_x source and to the owner and operator of each CAIR NO_x unit at the source.

4) Any provision of the CAIR NO_x Annual Trading Program that applies to a CAIR NO_x unit (including any provision applicable to the CAIR designated representative of a CAIR NO_x unit) will also apply to the owner and operator of the CAIR NO_x unit.

5) The CAIR designated representative of a CAIR NO_x unit that has excess emissions in any control period must surrender the allowances as required for deduction pursuant to 40 CFR 96.154(d)(1).

6) The owner or operator of a CAIR NO_x unit that has excess NO_x emissions in any control period must pay any fine, penalty, or assessment or comply with any other remedy imposed pursuant to the Act and 40 CFR 96.154(d)(2).

g) Effect on other authorities: No provision of the CAIR NO_x Annual Trading Program, a CAIR permit application, a CAIR permit, or a retired unit exemption pursuant to 40 CFR 96.105 will be construed as exempting or excluding the owner and operator and, to the extent applicable, the CAIR designated representative of a CAIR NO_x source or a CAIR NO_x unit from compliance with any other regulation promulgated pursuant to the CAA, the Act, any State regulation or permit, or a federally enforceable permit.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.415 Appeal Procedures

The appeal procedures for decisions of USEPA pursuant to the CAIR NO_x Annual Trading Program are set forth in 40 CFR 78, as incorporated by reference in Section 225.140.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.420 Permit Requirements

a) Permit requirements:

1) The owner or operator of each source with a CAIR NO_x unit is required to submit:

A) A complete permit application addressing all applicable CAIR NO_x Annual Trading Program requirements for a permit meeting the requirements of this Section, applicable to each CAIR NO_x unit at the source. Each CAIR permit must contain elements required for a complete CAIR permit application pursuant to subsection (b)(2) of this Section.

B) Any supplemental information that the Agency determines necessary in order to review a CAIR permit application and issue any CAIR permit.

2) Each CAIR permit will be issued pursuant to Sections 39 and 39.5 of the Act, must contain federally enforceable conditions addressing all applicable CAIR NO_x Annual Trading Program requirements, and will be a complete and segregable portion of the source's entire permit pursuant to subsection (a)(1) of this Section.

3) No CAIR permit may be issued until the Agency and USEPA have received a complete certificate of representation for a CAIR designated representative pursuant to 40 CFR 96, subpart BB, for the CAIR NO_x source and the CAIR NO_x unit at the source.

4) For all CAIR NO_x units that commenced operation before December 31, 2007, the owner or operator of the unit must submit a CAIR permit application meeting the requirements of this Section on or before December 31, 2007.

5) For all CAIR NO_x units that commence operation on or after December 31, 2007, the owner or operator of these units must submit applications for construction and operating permits pursuant to the requirements of Sections 39 and 39.5 of the Act, as applicable, and 35 Ill. Adm. Code 201 and the applications must specify that they are applying for CAIR permits and must address the CAIR permit application requirements of this Section.

b) Permit applications:

1) Duty to apply: The owner or operator of any source with one or more CAIR NO_x units must submit to the Agency a CAIR permit application for the source covering each CAIR NO_x unit pursuant to subsection (b)(2) of this Section by the applicable deadline in subsection (a)(4) or (a)(5) of this Section. The owner or operator of any source with one or more CAIR NO_x units must reapply for a CAIR permit for the source as required by this Subpart, 35 Ill. Adm. Code 201, and, as applicable, Sections 39 and 39.5 of the Act.

2) Information requirements for CAIR permit applications: A complete CAIR permit application must include the following elements concerning the source for which the application is submitted:

A) Identification of the source, including plant name. The ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration must also be included, if applicable;

B) Identification of each CAIR NO_x unit at the source; and

C) The compliance requirements applicable to each CAIR NO_x unit as set forth in Section 225.410.

3) An application for a CAIR permit will be treated as a modification of the

CAIR NO_x source's existing federally enforceable permit, if such a permit has been issued for that source, and will be subject to the same procedural requirements. When the Agency issues a CAIR permit pursuant to the requirements of this Section, it will be incorporated into and become part of that source's existing federally enforceable permit.

c) Permit content: Each CAIR permit is deemed to incorporate automatically the definitions and terms specified in Section 225.130 and 40 CFR 96.102, as incorporated by reference in Section 225.140 and, upon recordation of USEPA under 40 CFR 96, subparts FF and GG, as incorporated by reference in Section 225.140, every allocation, transfer, or deduction of a CAIR NO_x allowance to or from the compliance account of the CAIR NO_x source covered by the permit.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.425 Annual Trading Budget

The CAIR NO_x Annual Trading budget available for allowance allocations for each control period will be determined as follows:

a) The total base CAIR NO_x Annual Trading budget is 76,230 tons per control period for the years 2009 through 2014, subject to a reduction for two set-asides, the New Unit Set-Aside (NUSA) and the Clean Air Set-Aside (CASA). Five percent of the budget will be allocated to the NUSA and 25 percent will be allocated to the CASA, resulting in a CAIR NO_x Annual Trading budget of 53,361 tons available for allocation per control period pursuant to Section 225.440. The requirements of the NUSA are set forth in Section 225.445, and the requirements of the CASA are set forth in Sections 225.455 through 225.470.

b) The total base CAIR NO_x Annual Trading budget is 63,525 tons per control period for the year 2015 and thereafter, subject to a reduction for two set-asides, the NUSA and the CASA. Five percent of the budget will be allocated to the NUSA and 25 percent will be allocated to the CASA, resulting in a CAIR NO_x Annual Trading budget of 44,468 tons available for allocation per control period pursuant to Section 225.440.

c) If USEPA adjusts the total base CAIR NO_x Annual Trading budget for any reason, the Agency will adjust the base CAIR NO_x Annual Trading budget and the CAIR NO_x Annual Trading budget available for allocation, accordingly.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.430 Timing for Annual Allocations

a) On or before September 25, 2007, the Agency will submit to USEPA the CAIR NO_x allowance allocations, in accordance with Sections 225.435 and 225.440, for the 2009, 2010, and 2011 control periods.

b) By October 31, 2008, and October 31 of each year thereafter, the Agency will submit to USEPA the CAIR NO_x allowance allocations in accordance with Sections 225.435 and 225.440, for the control period four years after the year of the applicable deadline for submission pursuant to this Section. For example, on October 31, 2008, the Agency will submit to USEPA the allocations for the 2012 control period.

c) For CAIR NO_x units that commence commercial operation on or after January 1, 2006, that have not been allocated allowances under Section 225.440 for the applicable or any preceding control period, the Agency will allocate allowances from the NUSA in accordance with Section 255.445. The Agency will report these allocations to USEPA by October 31 of the applicable control period. For example, on October 31, 2009, the Agency will submit to USEPA the allocations from the NUSA for the 2009 control period.

d) The Agency will allocate allowances from the CASA to energy efficiency, renewable energy, and clean technology projects pursuant to the criteria in Sections 225.455 through 225.470. The Agency will report these allocations to USEPA by October 1 of each year. For example, on October 1, 2009, the Agency will submit to USEPA the allocations from the CASA for the 2009 control period, based on reductions made in the 2008 control period.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.435 Methodology for Calculating Annual Allocations

The Agency will calculate converted gross electrical (CGO) output, in MWh, for each CAIR NO_x unit that has operated during at least one calendar year prior to the calendar year in which the Agency reports the allocations to USEPA as follows:

a) For control periods 2009, 2010, and 2011, the owner or operator of the unit must submit in writing to the Agency, by September 15, 2007, a statement that either gross electrical output data or heat input data is to be used to calculate the unit's converted gross electrical output. The data shall be used to calculate converted gross electrical output pursuant to either subsection (a)(1) or (a)(2) of this Section:

1) Gross electrical output: If the unit has four or five control periods of data, then the gross electrical output (GO) will be the average of the unit's three highest gross electrical outputs from the 2001, 2002, 2003, 2004, or 2005 control periods. If the unit has three or fewer control periods of gross electrical output data, the gross electrical output will be the average of those control periods for which data is available. If a generator is served by two or more units, the gross electrical output of the generator will be attributed to each unit in proportion to the unit's share of the total control period heat input of these units for the control period. The unit's converted gross electrical output will be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = GO (in MWh) $\times$ 1.0;

B) If the unit is oil-fired:
CGO (in MWh) = GO (in MWh) $\times$ 0.6; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO (in MWh) $\times$ 0.4

2) Heat input (HI): If the unit has four or five control periods of data, the average of the unit's three highest heat inputs from the 2001, 2002, 2003, 2004 or 2005 control period will be used. If the unit has three or fewer control periods of heat input data, the heat input will be the average of those control periods for which data is available. The unit's converted gross electrical output will be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = HI (in mmBtu) $\times$ 0.0967;

B) If the unit is oil-fired:
CGO (in MWh) = HI (in mmBtu) $\times$ 0.0580; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0387.

b) For control periods 2012 and 2013, the owner or operator of the unit must submit in writing to the Agency, by June 1, 2008, a statement that either gross electrical output data or heat input data will be used to calculate the unit's converted gross electrical output. The unit's converted gross electrical output shall be calculated pursuant to either subsection (b)(1) or (b)(2) of this Section:

1) Gross electrical output: The average of the unit's two most recent years of control period gross electrical output, if available. If a unit commences commercial operation in the 2007 control period and does not have gross electrical output for the 2006 control period, then the gross electrical output from 2007 will be used. If a generator is served by two or more units, the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the control period. The unit's converted gross electrical output shall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = GO (in MWh) × 1.0;

B) If the unit is oil-fired:
CGO (in MWh) = GO (in MWh) × 0.6;

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO (in MWh) × 0.4.

2) Heat input: The average of the unit's two most recent years of control period heat inputs, e.g., for the 2012 control period, the average of the unit's heat input from the 2006 and 2007 control periods. The unit's converted gross electrical output shall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0967;

B) If the unit is oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0580; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0387.

c) For control period 2014 and thereafter, the unit's gross electrical output will be the average of the unit's two most recent control period's gross electrical output, if available. If a unit commences commercial operation in the most recent control period and does not have gross electrical output for two control periods, the gross electrical output from the most recent period, e.g., if the unit commences commercial operation in 2009 and does not have gross electrical output from 2008, gross electrical output from 2009 will be used. If a generator is served by two or more units, the gross electrical output of the generator will be attributed to each unit in proportion to the unit's share of the total control period heat input of these units for the control period. The unit's converted gross electrical output will be calculated as follows:

1) If the unit is coal-fired:
CGO (in MWh) = GO (in MWh) × 1.0;

2) If the unit is oil-fired:
CGO (in MWh) = GO (in MWh) × 0.6; or

3) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO (in MWh) × 0.4.

d) For a unit that is a combustion turbine or boiler and has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the Agency will add the converted gross electrical output calculated for electricity pursuant to subsection (a), (b), or (c) of this Section to the converted useful thermal energy (CUTE) to determine the total converted gross electrical output for the unit (TCGO). The Agency will determine the converted useful thermal energy by using the average of the unit's control period useful thermal energy for the prior two control periods, if available. In the first year for which a unit is considered to be an existing unit rather than a new unit, the unit's control period useful thermal output for the prior year will be used. The converted useful thermal energy will be determined using the following equations:

1) If the unit is coal-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.2930;

2) If the unit is oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1758; or

3) If the unit is neither coal-fired nor oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1172.

e) The CAIR NO_x unit's converted gross electrical output and converted useful thermal energy in subsections (a)(1), (b)(1), (c), and (d) of this Section for each control period will be based on the best available data reported or available to the Agency for the CAIR NO_x unit pursuant to the provisions of Section 225.450.

f) The CAIR NO_x unit's heat input in subsections (a)(2) and (b)(2) of this Section for each control period will be determined in accordance with 40 CFR 75, as incorporated by reference in Section 225.140.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.440 Annual Allocations

a) For the 2009 control period, and each control period thereafter, the Agency will allocate to all CAIR NO_x units in Illinois for which the Agency has calculated the converted gross electrical output pursuant to Section 225.435(a), (b), or (c) or total converted gross electrical output pursuant to Section 225.435(d), as applicable, a total amount of CAIR NO_x allowances equal to tons of NO_x emissions in the CAIR NO_x Annual Trading budget available for allocation as determined in Section 225.425 and as adjusted to add allowances not allocated pursuant to subsection (b) of this Section in the previous year's allocation.

b) The Agency will allocate CAIR NO_x allowances to each CAIR NO_x unit on a pro-rata basis using the unit's converted gross electrical output pursuant to Section 225.435(a), (b), or (c) or total converted gross electrical output calculated pursuant to Section 225.435(d), as applicable, to the extent whole allowances may be allocated. The Agency will retain any additional allowances beyond this allocation of whole allowances for allocation pursuant to subsection (a) of this Section in the next control period.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.445 New Unit Set-Aside (NUSA)

For the 2009 control period and each control period thereafter, the Agency will allocate CAIR NO_x allowances from the NUSA to CAIR NO_x units that commenced commercial operation on or after January 1, 2006, and do not yet have an allocation for the particular control period or any preceding control period pursuant to Section 225.440, in accordance with the following procedures:

a) Beginning with the 2009 control period and each control period thereafter, the Agency will establish a separate NUSA for each control period. Each NUSA will be allocated CAIR NO_x allowances equal to five percent of the amount of tons of NO_x emissions in the base CAIR NO_x Annual Trading budget in Section 225.425.

b) The CAIR designated representative of a new CAIR NO_x unit may submit to the Agency a request, in a format specified by the Agency, to be allocated CAIR NO_x allowances from the NUSA, starting with the first control period after the control period in which the new unit commences commercial operation and until the fifth control period after the control period in which the unit commenced commercial operation. The NUSA allowance allocation request may only be submitted after a new unit has operated during one control period, and no later than March 1 of the control period for which allowances from the NUSA are being requested.

c) In a NUSA allowance allocation request pursuant to subsection (b) of this Section, the CAIR designated representative must provide in its request information for gross electrical output and useful thermal energy, if any, for the new CAIR NO_x unit for that control period.

d) The Agency will allocate allowances from the NUSA to a new CAIR NO_x unit using the following procedures:

1) For each new CAIR NO_x unit, the unit's gross electrical output for the most recent control period will be used to calculate the unit's gross electrical output. If a generator is served by two or more units, the gross electrical output of the generator will be attributed to each unit in proportion to the unit's share of the total control period heat input of these units for the control period. The new unit's converted gross electrical output will be calculated as follows:

A) If the unit is coal-fired:

CGO (in MWh) = GO (in MWh) $\times$ 1.0;

B) If the unit is oil-fired:
CGO (in MW_h) = GO (in MWh) $\times$ 0.6; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO (in MWh) $\times$ 0.4.

2) If the unit is a combustion turbine or boiler and has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the Agency will add the converted gross electrical output calculated for electricity pursuant to subsection (d)(1) of this Section to the converted useful thermal energy to determine the total converted gross electrical output for the unit. The Agency will determine the converted useful thermal energy using the unit's useful thermal energy for the most recent control period. The converted useful thermal energy will be determined using the following equations:

A) If the unit is coal-fired:
CUTE (in MWh) = UTE (in mmBtu) $\times$ 0.2930;

B) If the unit is oil-fired:
CUTE (in MWh) = UTE (in mmBtu) $\times$ 0.1758; or

C) If the unit is neither coal-fired nor oil-fired:
CUTE (in MWh) = UTE (in mmBtu) $\times$ 0.1172.

3) The gross electrical output and useful thermal energy in subsections (d)(1) and (d)(2) of this Section for each control period will be based on the best available data reported or available to the Agency for the CAIR NO_x unit pursuant to the provisions of Section 225.450.

4) The Agency will determine a unit's unprorated allocation (UA_y) using the unit's converted gross electrical output plus the unit's converted useful thermal energy, if any, calculated in subsections (d)(1) and (d)(2) of this Section, converted to approximate NO_x tons (the unit's unprorated allocation), as follows:

$$UA_y = \frac{NCGO_y * (1.0 \text{ lbs/MWh})}{2000 \text{ lbs/ton}}$$

Where:

UA_y = unprorated allocation to a new CAIR NO_x unit.

$NCGO_y$ = converted gross electrical output or total converted gross electrical output, as applicable, for a new CAIR NO_x unit.

5) The Agency will allocate CAIR NO_x allowances from the NUSA to new CAIR NO_x units as follows:

A) If the NUSA for the control period for which CAIR NO_x allowances are requested has a number of allowances greater than or equal to the total unprorated allocations for all new units requesting allowances, the Agency will allocate the number of allowances using the unprorated allocation determined for that unit pursuant to subsection (d)(4) of this Section, to the extent that whole allowances may be allocated. For any additional allowances beyond this allocation of whole allowances, the Agency will retain the additional allowances in the NUSA for allocation pursuant to this Section in later control periods.

B) If the NUSA for the control period for which the allowances are requested has a number of CAIR NO_x allowances less than the total unprorated allocation to all new CAIR NO_x units requesting allocations, the Agency will allocate the available allowances for new CAIR NO_x units on a pro-rata basis, using the unprorated allocation determined for that unit pursuant to subsection (d)(4) of this Section, to the extent that whole allowances may be allocated. For any additional allowances beyond this allocation of whole allowances, the Agency will retain the additional allowances in the NUSA for allocation pursuant to this Section in later control periods.

e) The Agency will review each NUSA allowance allocation request pursuant to subsection (b) of this Section. The Agency will accept a NUSA allowance allocation request only if the request meets, or is adjusted by the Agency as necessary to meet, the requirements of this Section.

f) By June 1 of the applicable control period, the Agency will notify each CAIR designated representative that submitted a NUSA allowance request of the amount of CAIR NO_x allowances from the NUSA, if any, allocated for the control period to the new unit covered by the request.

g) The Agency will allocate CAIR NO_x allowances to new units from the NUSA no later than October 31 of the applicable control period.

h) After a new CAIR NO_x unit has operated in one control period, it becomes an existing unit for the purposes of calculating future allocations in Section 225.440 only, and the Agency will allocate CAIR NO_x allowances for that unit, for the control period commencing five control periods after the control period in which the unit commences commercial operation, pursuant to Section 225.440. For example, if a unit commences commercial operation in 2009, in 2010, the Agency will allocate to that unit allowances pursuant to Section 225.440 for the 2014 control period. The new CAIR NO_x unit will continue to receive CAIR NO_x allowances from the NUSA according to this Section until the unit is eligible to use the CAIR NO_x allowances allocated to the unit pursuant to Section 225.440.

i) If, after the completion of the procedures in subsection (c) of this Section for a control period, any unallocated CAIR NO_x allowances remain in the NUSA for the control period, the Agency will, at a minimum, accrue those CAIR NO_x allowances for future control period allocations to new CAIR NO_x units. The Agency may from time to time elect to retire CAIR NO_x allowances in the NUSA that are in excess of 15,881 for the purposes of continued progress toward attainment and maintenance of National Ambient Air Quality Standards pursuant to the CAA.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.450 Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Thermal Energy

a) By January 1, 2008, or by the date of commencing commercial operation, whichever is later, the owner or operator of the CAIR NO_x unit must operate a system for accurately measuring gross electrical output that is consistent with the requirements of either 40 CFR 60 or 75; must measure gross electrical output in MWh using such a system; and must record the output of the measurement system

at all times. If a generator is served by two or more units, the information to determine each unit's heat input for that control period must also be recorded, so as to allow each unit's share of the gross electrical output to be determined. If heat input data is used, the owner or operator must comply with the applicable provisions of 40 CFR 75, as incorporated by reference in Section 225.140.

b) For a CAIR NO_x unit that is a cogeneration unit, by January 1, 2008, or by the date the CAIR NO_x unit commences to produce useful thermal energy, whichever is later, the owner or operator of the unit with cogeneration capabilities must install, calibrate, maintain, and operate meters for steam flow in lbs/hr, temperature in degrees Fahrenheit, and pressure in PSI, to measure and record the useful thermal energy that is produced, in mmBtu/hr, on a continuous basis. Owners and operators of a CAIR NO_x unit that produces useful thermal energy but uses an energy transfer medium other than steam, e.g., hot water or glycol, must install, calibrate, maintain, and operate the necessary meters to measure and record the necessary data to express the useful thermal energy produced, in mmBtu/hr, on a continuous basis. If the CAIR NO_x unit ceases to produce useful thermal energy, the owner or operator may cease operation of the meters, provided that operation of these meters must be resumed if the CAIR NO_x unit resumes production of useful thermal energy.

c) The owner or operator of a CAIR NO_x unit must either report gross electrical output data to the Agency or comply with the applicable provisions for providing heat input data to USEPA as follows:

1) By September 15, 2007, the gross electrical output for control periods 2001, 2002, 2003, 2004 and 2005, if available, and the unit's useful thermal energy data, if applicable. If a generator is served by two or more units, the documentation needed to determine each unit's share of the heat input of such units for that control period must also be submitted. If heat input data is used, the owner or operator must comply with the applicable provisions of 40 CFR 75, as incorporated by reference in Section 225.140.

2) By June 1, 2008, the gross electrical output for control periods 2006 and 2007, if available, and the unit's useful thermal energy data, if applicable. If a generator is served by two or more units, the documentation needed to determine each unit's share of the heat input of such units for that control period must also be submitted. If heat input data is used, the owner or

operator must comply with the applicable provisions of 40 CFR 75, as incorporated by reference in Section 225.140.

d) Beginning with 2008, the CAIR designated representative of the CAIR NO_x unit must submit to the Agency quarterly, by no later than April 30, July 31, October 31, and January 31 of each year, information for the CAIR NO_x unit's gross electrical output, on a monthly basis for the prior quarter, and, if applicable, the unit's useful thermal energy for each month.

e) The owner or operator of a CAIR NO_x unit must maintain on-site the monitoring plan detailing the monitoring system, maintenance of the monitoring system, including quality assurance activities pursuant to the requirements of 40 CFR 60 or 75, as applicable, including the appropriate provisions for the measurement of gross electrical output for the CAIR NO_x Trading Program and, if applicable, for new units. The monitoring plan must include, but is not limited to:

1) A description of the system to be used for the measurement of gross electrical output pursuant to Section 225.450(a), including a list of any data logging devices, solid-state kW meters, rotating kW meters, electromechanical kW meters, current transformers, transducers, potential transformers, pressure taps, flow venturi, orifice plates, flow nozzles, vortex meters, turbine meters, pressure transmitters, differential pressure transmitters, temperature transmitters, thermocouples, resistance temperature detectors, and any equipment or methods used to accurately measure gross electrical output.

2) A certification statement by the CAIR designated representative that all components of the gross electrical output system have been tested to be accurate within three percent and that the gross electrical output system is accurate to within ten percent.

f) The owner or operator of a CAIR NO_x unit must retain records for at least five years from the date the record is created or the data is collected under subsections (a) and (b) of this Section, and the reports are submitted to the Agency and USEPA in accordance with subsections (c) and (d) of this Section. The owner or operator of a CAIR NO_x unit must retain the monitoring plan required in subsection (e) of this Section for at least five years from the date that it is replaced by a new or revised monitoring plan.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.455 Clean Air Set-Aside (CASA)

a) A project sponsor may apply for allowances from the CASA for sponsoring an energy efficiency and conservation, renewable energy, or clean technology project as set forth in Section 225.460 by submitting the application required by Section 225.470.

b) Notwithstanding subsection (a) of this Section, a project sponsor with a CAIR NO_x source that is out of compliance with this Subpart for a given control period may not apply for allowances from the CASA for that control period. If a source receives CAIR NO_x allowances from the CASA and then is subsequently found to have been out of compliance with this Subpart for the applicable control period or periods, the project sponsor must restore the CAIR NO_x allowances that it received pursuant to its CASA request or an equivalent number of CAIR NO_x allowances to the CASA within six months after receipt of an Agency notice that NO_x allowances must be restored. These allowances will be assigned to the fund from which they were distributed.

c) CAIR NO_x allowances from the CASA will be allocated in accordance with the procedures in Section 225.475.

d) The project sponsor may submit an application that aggregates two or more projects under a CASA project category that would individually result in less than one allowance, but that equal at a minimum one whole allowance when aggregated.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.460 Energy Efficiency and Conservation, Renewable Energy, and Clean Technology Projects

a) Energy efficiency and conservation project means any of the following projects implemented and located in Illinois:

1) Demand side management projects that reduce overall power demand by using less energy include:

A) Smart building management software that more efficiently regulates power flows.

B) The use of or replacement to high efficiency motors, pumps, compressors, or steam systems.

C) Lighting retrofits.

2) Energy efficient new building construction projects include:

A) ENERGY STAR-qualified new home projects.

B) Measures to reduce or conserve energy consumption beyond the requirements of the Illinois Energy Conservation Code for Commercial Buildings [20 ILCS 687/6-3].

C) New residential construction projects that qualify for Energy Efficient Tax Incentives pursuant to the Energy Policy Act of 2005 (42 USC 15801 (2005)).

3) Supply-side energy efficiency projects include projects implemented to improve the efficiency in electricity generation by coal-fired power plants and the efficiency of electrical transmission and distribution systems.

4) Highly efficient power generation projects, such as, but not limited to, combined cycle projects, combined heat and power, and microturbines. To be considered a highly efficient power generation project pursuant to this subsection (a)(4), a project must meet the following applicable thresholds and criteria:

A) For combined heat and power projects generating both electricity and useful thermal energy for space, water, or industrial process heat, a rated-energy efficiency of at least 60 percent and is not a CAIR NO_x unit.

B) For combined cycle projects rated at greater than 0.50 MW, a rated-energy efficiency of at least 50 percent.

C) For microturbine projects rated at or below 0.50 MW and all other projects, a rated-energy efficiency of at least 40 percent.

b) Renewable energy project means any of the following projects implemented and located in Illinois:

1) Zero-emission electric generating projects, including wind, solar (thermal or photovoltaic), and hydropower projects. Eligible hydropower plants are restricted to new generators, that are not replacements of existing generators, that commenced operation on or after January 1, 2006, and that do not involve the significant expansion of an existing dam or the construction of a new dam.

2) Renewable energy units are those units that generate electricity using more than 50 percent of the heat input, on an annual basis, from dedicated crops grown for energy production or the capture systems for methane gas from landfills, water treatment plants or sewage treatment plants, and organic waste biomass, and other similar sources of non-fossil fuel energy. Renewable energy projects do not include energy from incineration by burning or heating of waste wood, tires, garbage, general household waste, institutional lunchroom waste, office waste, landscape waste, or construction or demolition debris.

c) Clean technology project for reducing emissions from producing electricity and useful thermal energy means any of the following projects implemented and located in Illinois:

1) Air pollution control equipment upgrades at existing coal-fired EGUs, as follows: installation of flue gas desulfurization (FGD) for control of SO_2 emissions; installation of a baghouse for control of particulate matter emissions; and installation of selective catalytic reduction (SCR), selective non-catalytic reduction (SNCR), or other add-on control devices for control of NO_x emissions. For this purpose, a unit will be considered "existing" after it has been in commercial operation for at least eight years. Air pollution control upgrade projects do not include the addition of low NO_x burners, overfired air techniques or gas reburning techniques for control of NO_x emissions; projects involving flue gas conditioning techniques or upgrades, or replacement of electrostatic precipitators; or

addition of an activated carbon injection or other sorbent injection system for control of mercury.

2) Clean coal technologies projects include:

A) Integrated gasification combined cycle (IGCC) plants.

B) Fluidized bed coal combustion that commenced operation prior to December 31, 2006.

d) In addition to those projects excluded in subsections (a) through (c) of this Section, the following projects are also not energy efficiency and conservation, renewable energy, or clean technology projects:

1) Nuclear power projects.

2) Projects required to meet emission standards or technology requirements under State or federal law or regulation, except that allowances may be allocated for:

A) The installation of a baghouse.

B) Projects undertaken pursuant to Section 225.233 or Subpart F.

3) Projects used to meet the requirements of a court order or consent decree, except that allowances may be allocated for:

A) Emission rates or limits achieved that are lower than what is required to meet the emission rates or limits for SO_2 or NO_x or for installing a baghouse as provided for in a court order or consent decree entered into before May 30, 2006.

B) Projects used to meet the requirements of a court order or consent decree entered into on or after May 30, 2006, if the court order or consent decree does not specifically preclude such allocations.

4) A Supplemental Environmental Project (SEP).

e) Applications for projects implemented and located in Illinois that are not specifically listed in subsections (a) through (c) of this Section, and that are not specifically excluded by definition in subsections (a) through (c) of this Section or by specific exclusion in subsection (d) of this Section, may be submitted to the Agency. The application must designate which category or categories from those listed in subsections (a)(1) through (c)(2)(B) of this Section best fit the proposed project and the applicable formula pursuant to Section 225.465(b) to calculate the number of allowances that it is requesting. The Agency will determine whether the application is approvable based on a sufficient demonstration by the project sponsor that the project is a new type of energy efficiency, renewable energy, or clean technology project, similar in its effects as the projects specifically listed in subsections (a) through (c)(2)(B) of this Section.

f) Early adopter projects include projects that meet the criteria for any energy efficiency and conservation, renewable energy, or clean technology projects listed in subsections (a), (b), (c), and (e) of this Section and commence construction between July 1, 2006 and December 31, 2012.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.465 Clean Air Set-Aside (CASA) Allowances

a) The CAIR NO_x allowances for the CASA for each control period will be assigned to the following categories of projects:

		Phase I (2009-2014)	Phase II (2015 and thereafter)
1)	Energy Efficiency and Conservation/Renewable Energy	9149	7625
2)	Air Pollution Control Equipment Upgrades	3811	3175
3)	Clean Coal Technology	4573	3810
4)	Early Adopters	1525	1271

b) The following formulas must be used to determine the number of CASA allowances that may be allocated to a project per control period:

1) For an energy efficiency and conservation project pursuant to Section 225.460(a)(1) through (a)(4)(A), the number of allowances must be calculated using the number of megawatt hours of electricity that was not consumed during a control period and the following formula:

$$A = (MWh_c) \times (1.5 \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project.

MWh_c = The number of megawatt hours of electricity conserved or generated during a control period by a project.

2) For a zero emission electric generating project pursuant to Section 225.460(b)(1), the number of allowances must be calculated using the number of megawatt hours of electricity generated during a control period and the following formula:

$$A = (MWh_g) \times (2.0 \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project

MWh_g = The number of megawatt hours of electricity generated during a control period by a project.

3) For a renewable energy emission unit pursuant to Section 225.460(b)(2), the number of allowances must be calculated using the number of MWhs of electricity generated during a control period and the following formula:

$$A = (MWh_g) \times (0.5 \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of MW hours of electricity generated during a control period by a project.

4) For an air pollution control equipment upgrade project pursuant to Section 225.460(c)(1), the number of allowances will be calculated as follows:

A) For NO_x or SO_2 control projects, by determining the difference in emitted NO_x or SO_2 per control period using the emission rate before and after replacement or improvement, and the following formula:

$$A = (MWh_g) \times K \times (ER_B \text{ lb/MWh} - ER_A \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A	=	The number of allowances for a particular project.
MWh_g	=	The number of megawatt hours of electricity generated during a control period by a project.
K	=	The pollutant factor: for NO_x, K= 0.1; and for SO_2, K = 0.05.
ER_B	=	Average NO_x or SO_2 emission rate based on CEMS data from the most recent two control periods prior to the replacement or improvement of the control equipment in lb/MWh, unless subject to a court order or consent decree. For units subject to a court order or consent decree entered into before May 30, 2006, ER_B is limited to emission rates that are lower than the emission rate required in the consent decree or court order. For a court order or consent decree entered into after May 30, 2006, ER_B is limited to the lesser of the emission rate specified in the court order or consent decree or the actual average emission rate during the control period. If such limit is not expressed in lb/MWh, the limit must be converted into lb/MWh using a heat rate of 10 mmBtu/1 MW.
ER_A	=	Annual NO_x or SO_2 average emission rate for the applicable control period data based on CEMS data in lb/MWh.

B) For a baghouse project:

$$A = (MWh_g) \times (Q\ lb/MWh) / 2000\ lb$$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of MWh of electricity generated during a control period or the portion of a control period that the units were controlled by the baghouse.

Q =
- If a baghouse was not installed pursuant to a consent decree or court order, 0.2.
- If a baghouse was installed pursuant to a consent decree or court order that assigns a Q factor, the factor established in the consent decree or court order but must not exceed a factor of 0.2.
- If a baghouse was installed pursuant to a consent decree or court order that does not assign a Q factor, then Q shall equal:
  $Q = 0.25 - (P \times ER_g)$

  Where:

  P = If the most recent control period's average PM emission rate was based on PM CEMS data, 1.0; otherwise 1.1.

  ER_g = The magnitude of the most recent control period's average PM emission rate in lb/MWh exiting the baghouse, subject to the following limits:

  If P = 1.0, then $1/10 = ER_g = 2/10$

  If P = 1.1, then $1/11 = ER_g = 2/11$

  - If the ER_g is less than the lower limit, the lower limit shall be used.
  - If ER_g is greater than the upper

limit, the upper limit shall be used.

- If ER_q is not expressed in lb/MWh, the number must be converted to lb/MWh using a heat rate of 10 mmBtu/1 MW.

5) For highly efficient power generation and clean coal technology projects:

A) For projects other than fluidized coal combustion pursuant to Section 225.460(a)(4)(B), (a)(4)(C), and (c)(2), the number of allowances must be calculated using the number of MWh of electricity the project generates during a control period and the following formula:

$$A = (MWh_g) \times (1.0 \text{ lb/MWh} - ER \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of megawatt hours of electricity generated during a control period by a project.

ER = Annual average NO_x emission rate based on CEMS data in lb/MWh.

B) For fluidized bed coal combustion projects pursuant to Section 225.460(c)(2), the number of allowances shall be calculated using the number of gross MWh of electricity the project generates during a control period and the following formula:

$$A = (MWh_g) \times (1.4 \text{ lb/MWh} - ER \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of gross MWh of electricity generated during a control period by a project.

ER = Annual NO_x emission rate for the control period

based on CEMS data in lb/MWh.

6) For a CASA project that commences construction before December 31, 2012, in addition to the allowances allocated pursuant to subsections (b)(1) through (b)(5) of this Section, a project sponsor may also request additional allowances pursuant to the early adopter project category pursuant to Section 225.460(e) based on the following formula:

$$A = 1.0 + 0.10 \times S\ A_i$$

Where:

A = The number of allowances for a particular project as determined in subsections (b)(1) through (b)(5) of this Section.

A_i = The number of allowances as determined in subsection (b)(1), (b)(2), (b)(3), (b)(4) or (b)(5) of this Section for a given project.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.470 Clean Air Set-Aside (CASA) Applications

a) A project sponsor may request allowances if the project commenced construction on or after the dates listed in this subsection. The project sponsor may request and be allocated allowances from more than one CASA category for a project, if applicable.

1) Demand side management, energy efficient new construction, and supply side energy efficiency and conservation projects that commenced construction on or after January 1, 2003;

2) Fluidized bed coal combustion projects, highly efficient power generation operations projects, or renewable energy emission units, that commenced construction on or after January 1, 2001; and

3) All other projects on or after July 1, 2006.

b) Beginning with the 2009 control period and each control period thereafter, a project sponsor may request allowances from the CASA. The application must be

submitted to the Agency by May 1 of the control period for which the allowances are being requested.

c) The allocation will be based on the electricity conserved or generated in the control period preceding the calendar year in which the application is submitted. To apply for a CAIR NO_x allocation from the CASA, project sponsors must provide the Agency with the following information:

1) Identification of the project sponsor, including name, address, type of organization, certification that the project sponsor has met the definition of "project sponsor" as set forth in Section 225.130, and names of the principals or corporate officials.

2) The number of the CAIR NO_x general or compliance account for the project and the name of the associated CAIR account representative.

3) A description of the project or projects, location, the role of the project sponsor in the projects, and a general explanation of how the amount of energy conserved or generated was measured, verified, and calculated, and the number of allowances requested with the supporting calculations. The number of allowances requested will be calculated using the applicable formula from Section 225.470(b).

4) Detailed information to support the request for allowances, including the following types of documentation for the measurement and verification of the NO_x emissions reductions, electricity generated, or electricity conserved using established measurement verification procedures, as applicable. The measurement and verification required will depend on the type of project proposed.

A) As applicable, documentation of the project's base and control period conditions and resultant base and control period energy data, using the procedures and methods included in M&V Guidelines: Measurement and Verification for Federal Energy Projects, incorporated by reference in Section 225.140, or other method approved by the Agency. Examples include:

i) Energy consumption and demand profiles;

ii) Occupancy type;

iii) Density and periods;

iv) Space conditions or plant throughput for each operating period and season. (For example, in a building this would include the light level and color, space temperature, humidity and ventilation);

v) Equipment inventory, nameplate data, location, and condition; and

vi) Equipment operating practices (schedules and set points, actual temperatures/pressures);

B) Emissions data, including, if applicable, CEMS data;

C) Information for rated-energy efficiency, including supporting documentation and calculations; and

D) Electricity, in MWh generated or conserved for the applicable control period.

5) Notwithstanding the requirements of subsection (c)(4) of this Section, applications for fewer than five allowances may propose other reliable and applicable methods of quantification acceptable to the Agency.

6) Any additional information requested by the Agency to determine the correctness of the requested number of allowances, including site information, project specifications, supporting calculations, operating procedures, and maintenance procedures.

7) The following certification by the responsible official for the project sponsor and the applicable CAIR account representative for the project:

"I am authorized to make this submission on behalf of the project sponsor and the holder of the CAIR NO_x general account or compliance account for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and

information submitted in this application and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information."

d) A project sponsor may request allowances from the CASA for each project for a total number of control periods not to exceed the number of control periods listed in this subsection. After a project has been allocated allowances from the CASA, subsequent requests for the project from the project sponsor must include the information required by subsections (c)(1), (c)(2), (c)(3) and (c)(7) of this Section, a description of any changes, or further improvements made to the project, and information specified in subsections (c)(5) and (c)(6) as specifically requested by the Agency.

1) For energy efficiency and conservation projects (except for efficient operation and renewable energy projects), for a total of eight control periods.

2) For early adopter projects, for a total of ten control periods.

3) For air pollution control equipment upgrades, for a total of 15 control periods.

4) For renewable energy projects, clean coal technology, and highly efficient power generation projects, for each year that the project is in operation.

e) A project sponsor must keep copies of all CASA applications and the documentation used to support the application for at least five years.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.475 Agency Action on Clean Air Set-Aside (CASA) Applications

a) By September 1, 2009 and each September 1 thereafter, the Agency will determine the total number of allowances that are approvable for allocation to project sponsors based upon the applications submitted pursuant to Section 225.470.

1) The Agency will determine the number of CAIR NO_x allowances that are approvable based on the formulas and the criteria for these projects. The Agency will notify a project sponsor within 90 days after receipt of an application if the project is not approvable, the number of allowances requested is not approvable, or additional information is needed by the Agency to complete its review of the application.

2) If the total number of CAIR NO_x allowances requested for approved projects is less than or equal to the number of CAIR NO_x allowances in the CASA project category, the number of allowances that are approved will be allocated to each CAIR NO_x compliance or general account.

3) If more CAIR NO_x allowances are requested than the number of CAIR NO_x allowances in a given CASA project category, allowances will be allocated on a pro-rata basis based on the number of allowances available, subject to further adjustment as provided for by subsection (b) of this Section. CAIR NO_x allowances will be allocated, transferred, or used as whole allowances. The number of whole allowances will be determined by rounding down for decimals less than 0.5 and rounding up for decimals of 0.5 or greater.

b) For control periods 2011 and thereafter:

1) If there are, after the completion of the procedures in subsection (a) of this Section for a control period, any CAIR NO_x allowances not allocated to a CASA project for the control period the remaining allowances will accrue in each CASA project category up to twice the number of allowances that are assigned to the project category each control period as set forth in Section 225.465.

2) If any allowances remain after allocations pursuant to subsection (b)(1) of this Section, the Agency will allocate these allowances pro rata to projects that received fewer allowances than requested, based on the number of allowances not allocated but approved by the Agency for the project under CASA. No project may be allocated more allowances than approved by the Agency for the applicable control period.

3) If any allowances remain after the allocation of allowances pursuant to subsection (b)(2) of this Section, the Agency will then distribute pro-rata the remaining allowances to project categories that have fewer than twice the number of allowances assigned to that project category. The pro-rata distribution will be based on the difference between two times the project category and the number of allowances that remain in the project category.

4) If allowances still remain undistributed after the allocations and distributions in the subsections (b)(1) through (b)(3) are completed, the Agency may elect to retire the CAIR NO_x allowances that have not been distributed to any CASA category to continue progress toward attainment or maintenance of the National Ambient Air Quality Standards pursuant to the CAA.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.480 Compliance Supplement Pool

In addition to the CAIR NO_x allowances allocated pursuant to Section 225.425, the USEPA has allowed allocation of an additional 11,299 CAIR NO_x allowances in Illinois as a compliance supplement pool to Illinois for the control period in 2009. However, for the purposes of public health and air quality improvements, none of these allowances will be allocated.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

SUBPART E: CAIR NO_x OZONE SEASON TRADING PROGRAM

Section 225.500 Purpose

The purpose of this Subpart E is to control the seasonal emissions of nitrogen oxides (NO_x) from EGUs by determining allocations and implementing the CAIR NO_x Ozone Season Trading Program.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.505 Applicability

a) Except as provided in subsections (b)(1), (b)(3), and (b)(4) of this Section:

1) The following units are CAIR NO_x Ozone Season units, and any source that includes one or more such units is a CAIR NO_x source subject to the requirements of this Subpart E: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2) If a stationary boiler or stationary combustion turbine that, pursuant to subsection (a)(1) of this Section, is not a CAIR NO_x Ozone Season unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit will become a CAIR NO_x Ozone Season unit as provided in subsection (a)(1) of this Section on the first date on which it both combusts fossil fuel and serves such generator.

b) The units that meet the requirements set forth in subsections (b)(1), (b)(3), and (b)(4) of this Section will not be CAIR NO_x Ozone Season units and units that meet the requirements of subsections (b)(2) and (b)(5) of this Section are CAIR NO_x Ozone Season units:

1) Any unit that would otherwise be classified as a CAIR NO_x Ozone Season unit pursuant to subsection (a)(1) or (a)(2) of this Section and:

A) Qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continues to qualify as a cogeneration unit; and

B) Does not serve at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution for sale.

2) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and meets the requirements of subsection (b)(1) of this Section for at least one calendar year, but subsequently no longer meets all such requirements, the unit

shall become a CAIR NO_x Ozone Season unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subsection (b)(1)(B) of this Section.

3) Any unit that would otherwise be classified as a CAIR NO_x Ozone Season unit pursuant to subsection (a)(1) or (a)(2) of this Section commencing operation before January 1, 1985 and:

A) Qualifies as a solid waste incineration unit; and

B) Has an average annual fuel consumption of non-fossil fuel for 1985-1987 exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

4) Any unit that would otherwise be classified as a CAIR NO_x Ozone Season unit under subsection (a)(1) or (a)(2) of this Section commencing operation on or after January 1, 1985 and:

A) Qualifies as a solid waste incineration unit; and

B) Has an average annual fuel consumption of non-fossil fuel the first three years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

5) If a unit qualifies as a solid waste incineration unit and meets the requirements of subsection (b)(3) or (b)(4) of this Section for at least three consecutive years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x Ozone Season unit starting on the earlier of January 1 after the first three consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of 20 percent or more.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.510 Compliance Requirements

a) The designated representative of a CAIR NO_x Ozone Season unit must comply with the requirements of the CAIR NO_x Ozone Season Trading Program for Illinois as set forth in this Subpart E and 40 CFR 96, subpart AAAA (CAIR NO_x Ozone Season Trading Program General Provisions) (excluding 40 CFR 96.304, 96.305(b)(2), and 96.306); 40 CFR 96, subpart BBBB (CAIR Designated Representative for CAIR NO_x Ozone Season Sources); 40 CFR 96, subpart FFFF (CAIR NO_x Ozone Season Allowance Tracking System); 40 CFR 96, subpart GGGG (CAIR NO_x Ozone Season Allowance Transfers); and 40 CFR 96, subpart HHHH (Monitoring and Reporting); as incorporated by reference in Section 225.140.

b) Permit requirements:

1) The designated representative of each source with one or more CAIR NO_x Ozone Season units at the source must apply for a permit issued by the Agency with federally enforceable conditions covering the CAIR NO_x Ozone Season Trading Program ("CAIR permit") that complies with the requirements of Section 225.520 (Permit Requirements).

2) The owner or operator of each CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source must operate the CAIR NO_x Ozone Season unit in compliance with its CAIR permit.

c) Monitoring requirements:

1) The owner or operator of each CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source must comply with the monitoring, reporting and recordkeeping requirements of 40 CFR 96, subpart HHHH; 40 CFR 75; and Section 225.550. The CAIR designated representative of each CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source must comply with those sections of the monitoring, reporting and recordkeeping requirements of 40 CFR 96, subpart HHHH, applicable to a CAIR designated representative.

2) The compliance of each CAIR NO_x Ozone Season source with the CAIR NO_x Ozone Season emissions limitation pursuant to subsection (d) of this

Section will be determined by the emissions measurements recorded and reported in accordance with 40 CFR 96, subpart HHHH.

d) Emission requirements:

1) By the allowance transfer deadline, midnight of November 30, 2009, and by midnight of November 30 of each subsequent year if November 30 is a business day, the owner or operator of each CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source must hold allowances available for compliance deductions pursuant to 40 CFR 96.354(a) in the CAIR NO_x Ozone Season source's compliance account. If November 30 is not a business day, the allowance transfer deadline means by midnight of the first business day thereafter. The number of allowances held may not be less than the tons of NO_x emissions for the control period from all CAIR NO_x Ozone Season units at the CAIR NO_x Ozone Season source, as determined in accordance with 40 CFR 96, subpart HHHH.

2) Each ton of excess emissions of a CAIR NO_x Ozone Season source for each day in a control period, starting in 2009 will constitute a separate violation of this Subpart E, the Act, and the CAA.

3) Each CAIR NO_x Ozone Season unit will be subject to the requirements of subsection (d)(1) of this Section for the control period starting on the later of May 1, 2009 or the deadline for meeting the unit's monitoring certification requirements pursuant to 40 CFR 96.370(b)(1), (b)(2) or (b)(3) and for each control period thereafter.

4) CAIR NO_x Ozone Season allowances must be held in, deducted from, or transferred into or among allowance accounts in accordance with this Subpart and 40 CFR 96, subparts FFFF and GGGG.

5) In order to comply with the requirements of subsection (d)(1) of this Section, a CAIR NO_x Ozone Season allowance may not be deducted for compliance according to subsection (d)(1) of this Section for a control period in a calendar year before the year for which the CAIR NO_x Ozone Season allowance is allocated.

6) A CAIR NO_x Ozone Season allowance is a limited authorization to emit

one ton of NO_x in accordance with the CAIR NO_x Ozone Season Trading Program. No provision of the CAIR NO_x Ozone Season Trading Program, the CAIR permit application, the CAIR permit, or a retired unit exemption pursuant to 40 CFR 96.305, and no provision of law, will be construed to limit the authority of the United States or the State to terminate or limit this authorization.

7) A CAIR NO_x Ozone Season allowance does not constitute a property right.

8) Upon recordation by USEPA pursuant to 40 CFR 96, subpart FFFF or GGGG, every allocation, transfer, or deduction of a CAIR NO_x Ozone Season allowance to or from a CAIR NO_x Ozone Season source compliance account is deemed to amend automatically, and become a part of, any CAIR permit of the CAIR NO_x Ozone Season source. This automatic amendment of the CAIR permit will be deemed an operation of law and will not require any further review.

e) Recordkeeping and reporting requirements:

1) Unless otherwise provided, the owner or operator of the CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source must keep on site at the source each of the documents listed in subsections (e)(1)(A) through (e)(1)(E) of this Section for a period of five years from the date the document is created. This period may be extended for cause, at any time prior to the end of five years, in writing by the Agency or USEPA.

A) The certificate of representation for the CAIR designated representative for the source and each CAIR NO_x Ozone Season unit at the source, all documents that demonstrate the truth of the statements in the certificate of representation, provided that the certificate and documents must be retained on site at the source beyond such five-year period until the documents are superseded because of the submission of a new certificate of representation, pursuant to 40 CFR 96.313, changing the CAIR designated representative.

B) All emissions monitoring information, in accordance with 40 CFR

96, subpart HHHH.

C) Copies of all reports, compliance certifications, and other submissions and all records made or required pursuant to the CAIR NO_x Ozone Season Trading Program or documents necessary to demonstrate compliance with the requirements of the CAIR NO_x Ozone Season Trading Program or with the requirements of this Subpart E.

D) Copies of all documents used to complete a CAIR permit application and any other submission or documents used to demonstrate compliance pursuant to the CAIR NO_x Ozone Season Trading Program.

E) Copies of all records and logs for gross electrical output and useful thermal energy required by Section 225.550.

2) The CAIR designated representative of a CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source must submit to the Agency and USEPA the reports and compliance certifications required pursuant to the CAIR NO_x Ozone Season Trading Program, including those pursuant to 40 CFR 96, subpart HHHH and Section 225.550.

f) Liability:

1) No revision of a permit for a CAIR NO_x Ozone Season unit may excuse any violation of the requirements of this Subpart E or the requirements of the CAIR NO_x Ozone Season Trading Program.

2) Each CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit must meet the requirements of the CAIR NO_x Ozone Season Trading Program.

3) Any provision of the CAIR NO_x Ozone Season Trading Program that applies to a CAIR NO_x Ozone Season source (including any provision applicable to the CAIR designated representative of a CAIR NO_x Ozone Season source) will also apply to the owner and operator of the CAIR NO_x Ozone Season source and to the owner and operator of each CAIR NO_x Ozone Season unit at the source.

4) Any provision of the CAIR NOx Ozone Season Trading Program that applies to a CAIR NO_x Ozone Season unit (including any provision applicable to the CAIR designated representative of a CAIR NO_x Ozone Season unit) will also apply to the owner and operator of the CAIR NO_x Ozone Season unit.

5) The CAIR designated representative of a CAIR NO_x Ozone Season unit that has excess emissions in any control period must surrender the allowances as required for deduction pursuant to 40 CFR 96.354(d)(1).

6) The owner or operator of a CAIR NO_x Ozone Season unit that has excess NO_x emissions in any control period must pay any fine, penalty, or assessment or comply with any other remedy imposed pursuant to the Act and 40 CFR 96.354(d)(2).

g) Effect on other authorities: No provision of the CAIR NO_x Ozone Season Trading Program, a CAIR permit application, a CAIR permit, or a retired unit exemption pursuant to 40 CFR 96.305 will be construed as exempting or excluding the owner and operator and, to the extent applicable, the CAIR designated representative of a CAIR NO_x Ozone Season source or a CAIR NO_x Ozone Season unit from compliance with any other regulation promulgated pursuant to the CAA, the Act, any State regulation or permit, or a federally enforceable permit.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007

Section 225.515 Appeal Procedures

The appeal procedures for decisions of USEPA pursuant to the CAIR NO_x Ozone Season Trading Program are set forth in 40 CFR 78, as incorporated by reference in Section 225.140.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.520 Permit Requirements

a) Permit requirements:

1) The owner or operator of each source with a CAIR NO_x Ozone Season

unit is required to submit:

A) A complete permit application addressing all applicable CAIR NO_x Ozone Season Trading Program requirements for a permit meeting the requirements of this Section, applicable to each CAIR NO_x Ozone Season unit at the source. Each CAIR permit must contain elements required for a complete CAIR permit application pursuant to subsection (b)(2) of this Section.

B) Any supplemental information that the Agency determines necessary in order to review a CAIR permit application and issue any CAIR permit.

2) Each CAIR permit will be issued pursuant to Sections 39 and 39.5 of the Act and will contain federally enforceable conditions addressing all applicable CAIR NO_x Ozone Season Trading Program requirements and will be a complete and segregable portion of the source's entire permit pursuant to subsection (a)(1) of this Section.

3) No CAIR permit may be issued until the Agency and USEPA have received a complete certificate of representation for a CAIR designated representative pursuant to 40 CFR 96, subpart BBBB, for the CAIR NO_x Ozone Season source and the CAIR NO_x Ozone Season unit at the source.

4) For all CAIR NO_x Ozone Season units that commenced operation before December 31, 2007, the owner or operator of the unit must submit a CAIR permit application meeting the requirements of this Section on or before December 31, 2007.

5) For all units that commence operation on or after December 31, 2007, the owner or operator of these units must submit applications for construction and operating permits pursuant to the requirements of Sections 39 and 39.5 of the Act, as applicable, and 35 Ill. Adm. Code 201, and the applications must specify that they are applying for CAIR permits and must address the CAIR permit application requirements of this Section 225.520.

b) Permit applications:

1) Duty to apply: The owner or operator of any source with one or more CAIR NO_x Ozone Season units must submit to the Agency a CAIR permit application for the source covering each CAIR NO_x Ozone Season unit pursuant to subsection (b)(2) of this Section by the applicable deadline in subsection (a)(4) or (a)(5) of this Section. The owner or operator of any source with one or more CAIR NO_x Ozone Season units must reapply for a CAIR permit for the source as required by this Subpart, 35 Ill. Adm. Code 201, and, as applicable, Sections 39 and 39.5 of the Act.

2) Information requirements for CAIR permit applications. A complete CAIR permit application must include the following elements concerning the source for which the application is submitted:

A) Identification of the source, including plant name. The ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration must also be included, if applicable;

B) Identification of each CAIR NO_x Ozone Season unit at the source; and

C) The compliance requirements applicable to each CAIR NO_x Ozone Season unit as set forth in Section 225.510.

3) An application for a CAIR permit will be treated as a modification of the CAIR NO_x Ozone Season source's existing federally enforceable permit, if such a permit has been issued for that source, and will be subject to the same procedural requirements. When the Agency issues a CAIR permit pursuant to the requirements of this Section, it will be incorporated into and become part of that source's existing federally enforceable permit.

c) Permit content: Each CAIR permit is deemed to incorporate automatically the definitions and terms specified in Section 225.130 and 40 CFR 96.302, as incorporated by reference in Section 225.140, and, upon recordation of USEPA under 40 CFR 96, subparts FFFF and GGGG, as incorporated by reference in Section 225.140, every allocation, transfer, or deduction of a CAIR NO_x Ozone Season allowance to or from the compliance account of the CAIR NO_x Ozone Season source covered by the permit.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.525 Ozone Season Trading Budget

The CAIR NO_x Ozone Season Trading budget available for allowance allocations for each control period will be determined as follows:

a) The total base CAIR NO_x Ozone Season Trading budget is 30,701 tons per control period for the years 2009 through 2014, subject to a reduction for two set-asides, the NUSA and the CASA. Five percent of the budget will be allocated to the NUSA and 25 percent will be allocated to the CASA, resulting in a CAIR NO_x Ozone Season Trading budget available for allocation of 21,491 tons per control period pursuant to Section 225.540. The requirements of the NUSA are set forth in Section 225.545, and the requirements of the CASA are set forth in Sections 225.555 through 225.570.

b) The total base CAIR NO_x Ozone Season Trading budget is 28,981 tons per control period for the year 2015 and thereafter, subject to a reduction for two set-asides, the NUSA and the CASA. Five percent of the budget will be allocated to the NUSA and 25 percent will be allocated to the CASA, resulting in a CAIR NO_x Ozone Season Trading budget available for allocation of 20,287 tons per control period pursuant to Section 225.540.

c) If USEPA adjusts the total base CAIR NO_x Ozone Season Trading budget for any reason, the Agency will adjust the base CAIR NO_x Ozone Season Trading budget and the CAIR NO_x Ozone Season Trading budget available for allocation, accordingly.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.530 Timing for Ozone Season Allocations

a) On or before September 25, 2007, the Agency will submit to USEPA the CAIR NO_x Ozone Season allowance allocations, in accordance with Sections 225.535 and 225.540, for the 2009, 2010, and 2011 control periods.

b) By July 1, 2008 and July 31 of each year thereafter, the Agency will submit to USEPA the CAIR NO_x Ozone Season allowance allocations in accordance with Sections 225.535 and 225.540, for the control period four years after the year of

the applicable deadline for submission pursuant to this Section. For example, on July 31, 2008, the Agency will submit to USEPA the allocation for the 2012 control period.

c) For CAIR NO_x Ozone Season units that commence commercial operation on or after May 1, 2006, that have not been allocated allowances under Section 225.440 for the applicable or any preceding control period, the Agency will allocate allowances from the NUSA in accordance with Section 225.545. The Agency will report these allocations to USEPA by July 31 of the applicable control period. For example, on July 31, 2009, the Agency will submit to USEPA the allocations from the NUSA for the 2009 control period.

d) The Agency will allocate allowances from the CASA to energy efficiency, renewable energy, and clean technology projects pursuant to the criteria in Sections 225.555 through 225.570. The Agency will report these allocations to USEPA by October 1 of each year. For example, on October 1, 2009, the Agency will submit to USEPA the allocations from the CASA for the 2009 control period, based on reductions made in the 2008 control period.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.535 Methodology for Calculating Ozone Season Allocations

The Agency will calculate converted gross electrical output (CGO), in MWh, for each CAIR NO_x Ozone Season unit that has operated during at least one control period prior to the calendar year in which the Agency reports the allocations to USEPA as follows:

a) For control periods 2009, 2010, and 2011, the owner or operator of the unit must submit in writing to the Agency, by September 15, 2007, a statement that either gross electrical output data or heat input data is to be used to calculate converted gross electrical output. The data shall be used to calculate converted gross electrical output pursuant to either subsection (a)(1) or (a)(2) of this Section:

1) Gross electrical output: If the unit has four or five control periods of data, then the gross electrical output (GO) will be the average of the unit's three highest gross electrical outputs from the 2001, 2002, 2003, 2004, or 2005 control periods. If the unit has three or fewer control periods of gross electrical outputs, the gross electrical output will be the average of those control periods for which data is available. If a generator is served by two

or more units, then the gross electrical output of the generator will be attributed to each unit in proportion to the unit's share of the total control period heat input of these units for the control period. The unit's converted gross electrical output will be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = GO (in MWh) × 1.0;

B) If the unit is oil-fired:
CGO (in MWh) = GO (in MWh) × 0.6; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO (in MWh) × 0.4.

2) Heat input (HI): If the unit has four or five control periods of data, the average of the unit's three highest control period heat inputs from 2001, 2002, 2003, 2004, or 2005 will be used. If the unit has three or fewer control periods of heat input data, the heat input will be the average of those control periods for which data is available. The unit's converted gross electrical output will be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0967;

B) If the unit is oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0580; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0387.

b) For control periods 2012 and 2013, the owner or operator of the unit must submit in writing to the Agency, by June 1, 2008, a statement that either gross electrical output data or heat input data is to be used to calculate the unit's converted gross electrical output. The unit's converted gross electrical output shall be calculated pursuant to either subsection (b)(1) or (b)(2) of this Section:

1) Gross electrical output: The average of the unit's two most recent years of control period gross electrical output, if available. If a unit commences commercial operation in the 2007 control period and does not have gross

electrical output for the 2006 control period, the gross electrical output from the 2007 control period will be used. If a generator is served by two or more units, the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the control period. The unit's converted gross electrical output shall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = GO (in MWh) × 1.0;

B) If the unit is oil-fired:
CGO (in MWh) = GO (in MWh) × 0.6;

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO (in MWh) × 0.4.

2) Heat input: The average of the unit's two most recent years of control period heat inputs, e.g., for the 2012 control period, the average of the unit's heat input from the 2006 and 2007 control periods. The unit's converted gross electrical output shall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0967;

B) If the unit is oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0580; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0387.

c) For control period 2014 and thereafter, the unit's gross electrical output will be the average of the unit's two most recent control period's gross electrical output, if available. If a unit commences commercial operation in the most recent control period and does not have gross electrical output from the most recent control period, e.g., if the unit commences commercial operation in the 2009 control period and does not have gross electrical output from the 2008 control period, gross electrical output from the 2009 control period will be used. If a generator is served by two or more units, the gross electrical output of the generator will be attributed to each unit in proportion to the unit's share of the total control period

heat input of these units for the control period. The unit's converted gross electrical output will be calculated as follows:

1) If the unit is coal-fired:
CGO (in MWh) = GO (in MWh) × 1.0;

2) If the unit is oil-fired:
CGO (in MWh) = GO (in MWh) × 0.6; or

3) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO (in MWh) × 0.4.

d) For a unit that is a combustion turbine or boiler and has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the Agency will add the converted gross electrical output calculated for electricity pursuant to subsection (a), (b), or (c) of this Section to the converted useful thermal energy (CUTE) to determine the total converted gross electrical output for the unit (TCGO). The Agency will determine the converted useful thermal energy by using the average of the unit's control period useful thermal energy for the prior two control periods, if available. In the first control period for which the unit is considered to be an existing unit rather than a new unit, the unit's control period useful thermal output for the prior year will be used. The converted useful thermal energy will be determined using the following equations:

1) If the unit is coal-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.2930;

2) If the unit is oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1758; or

3) If the unit is neither coal-fired nor oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1172.

e) The CAIR NO_x Ozone Season unit's converted gross electrical output and converted useful thermal energy in subsections (a)(1), (b)(1), (c), and (d) of this Section for each control period will be based on the best available data reported or available to the Agency for the CAIR NO_x Ozone Season unit pursuant to the provisions of Section 225.550.

f) The CAIR NO_x Ozone Season unit's heat input in subsections (a)(2) and (b)(2) of this Section for each control period will be determined in accordance with 40 CFR 75, as incorporated by reference in Section 225.140.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.540 Ozone Season Allocations

a) For the 2009 control period, and each control period thereafter, the Agency will allocate, to all CAIR NO_x Ozone Season units in Illinois for which the Agency has calculated the converted gross electrical output pursuant to Section 225.535(a), (b), or (c), or total converted gross electrical output pursuant to Section 225.535(d), a total amount of CAIR NO_x Ozone Season allowances equal to tons of NO_x emissions in the CAIR NO_x Ozone Season Trading budget available for allocation as determined in Section 225.525(d) and, as adjusted to add allowances not allocated pursuant to subsection (b) of this Section in the previous year's allocation.

b) The Agency will allocate CAIR NO_x Ozone Season allowances to each CAIR NO_x Ozone Season unit on a pro-rata basis using the unit's converted gross electrical output pursuant to Section 225.535(a), (b), or (c), or total converted gross electrical output calculated pursuant to Section 225.535(d), as applicable, to the extent whole allowances may be allocated. The Agency will retain any additional allowances beyond this allocation of whole allowances for allocation pursuant to subsection (a) of this Section in the next control period.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.545 New Unit Set-Aside (NUSA)

For the 2009 control period and each control period thereafter, the Agency will allocate CAIR NO_x Ozone Season allowances from the NUSA to CAIR NO_x Ozone Season units that commenced commercial operation on or after May 1, 2006, and do not yet have an allocation for the particular control period or any preceding control period pursuant to Section 225.540, in accordance with the following procedures:

a) Beginning with the 2009 control period and each control period thereafter, the Agency will establish a separate NUSA for each control period. Each NUSA will

be allocated CAIR NO_x Ozone Season allowances equal to five percent of the amount of tons of NO_x emissions in the base CAIR NO_x Ozone Season Trading budget in Section 225.525.

b) The CAIR designated representative of a new CAIR NO_x Ozone Season unit may submit to the Agency a request, in a format specified by the Agency, to be allocated CAIR NO_x Ozone Season allowances from the NUSA, starting with the first control period after the control period in which the new unit commences commercial operation and until the fifth control period after the control period in which the unit commenced commercial operation. The NUSA allowance allocation request may only be submitted after a new unit has operated during one control period, and no later than March 1 of the control period for which allowances from the NUSA are being requested.

c) In a NUSA allowance allocation request pursuant to subsection (b) of this Section, the CAIR designated representative must provide in its request information for gross electrical output and useful thermal energy, if any, for the new CAIR NO_x Ozone Season unit for that control period.

d) The Agency will allocate allowances from the NUSA to a new CAIR NO_x Ozone Season unit using the following procedures:

1) For each new CAIR NO_x Ozone Season unit, the unit's gross electrical output for the most recent control period will be used to calculate the unit's gross electrical output. If a generator is served by two or more units, the gross electrical output of the generator will be attributed to each unit in proportion to the unit's share of the total control period heat input of these units for the control period. The new unit's converted gross electrical output will be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = GO (in MWh) $\times$ 1.0;

B) If the unit is oil-fired:
CGO (in MWh) = GO (in MWh) $\times$ 0.6; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO (in MWh) $\times$ 0.4.

2) If the unit is a combustion turbine or boiler and has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the Agency will add the converted gross electrical output calculated for electricity pursuant to subsection (d)(1) of this Section to the converted useful thermal energy to determine the total converted gross electrical output for the unit. The Agency will determine the converted useful thermal energy using the unit's useful thermal energy for the most recent control period. The converted useful thermal energy will be determined using the following equations:

A) If the unit is coal-fired:
CUTE (in MWh) = UTE (in mmBtu) $\times$ 0.2930;

B) If the unit is oil-fired:
CUTE (in MWh) = UTE (in mmBtu) $\times$ 0.1758; or

C) If the unit is neither coal-fired nor oil-fired:
CUTE (in MWh) = UTE (in mmBtu) $\times$ 0.1172.

3) The gross electrical output and useful thermal energy in subsections (d)(1) and (d)(2) of this Section for each control period will be based on the best available data reported or available to the Agency for the CAIR NO_x Ozone Season unit pursuant to the provisions of Section 225.550 .

4) The Agency will determine a unit's unprorated allocation (UA_y) using the unit's converted gross electrical output plus the unit's converted useful thermal energy, if any, calculated in subsections (d)(1) and (d)(2) of this Section, converted to approximate NO_x tons (the unit's unprorated allocation), as follows:

$$UA_y = \frac{NCGO_y \times (1.01 \text{ lbs/MWh})}{2000 \text{ lbs/ton}}$$

Where:

UA_y = unprorated allocation to a new CAIR NO_x Ozone Season unit.

$NCGO_y$ = converted gross electrical output or total converted gross

electrical output, as applicable, for a new CAIR NO_x Ozone Season unit.

5) The Agency will allocate CAIR NO_x Ozone Season allowances from the NUSA to new CAIR NO_x Ozone Season units as follows:

A) If the NUSA for the control period for which CAIR NO_x Ozone Season allowances are requested has a number of allowances greater than or equal to the total unprorated allocations for all new units requesting allowances, the Agency will allocate the number of allowances using the unprorated allocation determined for that unit pursuant to subsection (d)(4) of this Section, to the extent that whole allowances may be allocated. For any additional allowances beyond this allocation of whole allowances, the Agency will retain the additional allowances in the NUSA for allocation pursuant to this Section in later control periods.

B) If the NUSA for the control period for which the allowances are requested has a number of CAIR NO_x Ozone Season allowances less than the total unprorated allocation to all new CAIR NO_x Ozone Season units requesting allocations, the Agency will allocate the available allowances for new CAIR NO_x Ozone Season units on a pro-rata basis, using the unprorated allocation determined for that unit pursuant to subsection (d)(4) of this Section, to the extent that whole allowances may be allocated. For any additional allowances beyond this allocation of whole allowances, the Agency will retain the additional allowances in the NUSA for allocation pursuant to this Section in later control periods.

e) The Agency will review each NUSA allowance allocation request pursuant to subsection (b) of this Section. The Agency will accept a NUSA allowance allocation request only if the request meets, or is adjusted by the Agency as necessary to meet, the requirements of this Section.

f) By June 1 of the applicable control period, the Agency will notify each CAIR designated representative that submitted a NUSA allowance request of the amount of CAIR NO_x Ozone Season allowances from the NUSA, if any, allocated for the control period to the new unit covered by the request.

g) The Agency will allocate CAIR NO_x Ozone Season allowances to new units from the NUSA no later than July 31 of the applicable control period.

h) After a new CAIR NO_x Ozone Season unit has operated in one control period, it becomes an existing unit for the purposes of calculating future allocations in Section 225.540 only, and the Agency will allocate CAIR NO_x Ozone Season allowances for that unit, for the control period commencing five control periods after the control period in which the unit commenced commercial operation, pursuant to Section 225.540. The new CAIR NO_x Ozone Season unit will continue to receive CAIR NO_x Ozone Season allowances from the NUSA according to this Section until the unit is eligible to use the CAIR NO_x Ozone Season allowances allocated to the unit pursuant to Section 225.540.

i) If, after the completion of the procedures in subsection (c) of this Section for a control period, any unallocated CAIR NO_x Ozone Season allowances remain in the NUSA for the control period, the Agency will, at a minimum, accrue those CAIR NO_x Ozone Season allowances for future control period allocations to new CAIR NO_x Ozone Season units. The Agency may from time to time elect to retire CAIR NO_x Ozone Season allowances in the NUSA that are in excess of 7,245 for the purposes of continued progress toward attainment and maintenance of National Ambient Air Quality Standards pursuant to the CAA.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.550 Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Thermal Energy

a) By January 1, 2008, or by the date of commencing commercial operation, whichever is later, the owner or operator of the CAIR NO_x Ozone Season unit must operate a system for accurately measuring gross electrical output that is consistent with the requirements of either 40 CFR 60 or 75; must measure gross electrical output in MWh using such a system; and must record the output of the measurement system at all times. If a generator is served by two or more units, the information to determine each unit's heat input for that control period must also be recorded, so as to allow each unit's share of the gross electrical output to be determined. If heat input data is used, the owner or operator must comply with the applicable provisions of 40 CFR 75, as incorporated by reference in Section 225.140.

b) For a CAIR NO_x Ozone Season unit that is a cogeneration unit, by January 1, 2008, or by the date the CAIR NO_x Ozone Season unit commences to produce useful thermal energy, whichever is later, the owner or operator of the unit with cogeneration capabilities must install, calibrate, maintain, and operate meters for steam flow in lbs/hr, temperature in degrees Fahrenheit, and pressure in PSI, to measure and record the useful thermal energy that is produced, in mmBtu/hr, on a continuous basis. Owners and operators of a CAIR NO_x Ozone Season unit that produces useful thermal energy but uses an energy transfer medium other than steam, e.g., hot water or glycol, must install, calibrate, maintain, and operate the necessary meters to measure and record the necessary data to express the useful thermal energy produced, in mmBtu/hr, on a continuous basis. If the CAIR NO_x Ozone Season unit ceases to produce useful thermal energy, the owner or operator may cease operation of these meters, provided that operation of such meters must be resumed if the CAIR NO_x Ozone Season unit resumes production of useful thermal energy.

c) The owner or operator of a CAIR NO_x Ozone Season unit must either report gross electrical output data to the Agency or comply with the applicable provisions for providing heat input data to USEPA as follows:

1) By September 15, 2007, the gross electrical output for control periods 2001, 2002, 2003, 2004 and 2005, if available, and the unit's useful thermal energy data, if applicable. If a generator is served by two or more units, the documentation needed to determine each unit's share of the heat input of such units for that control period must also be submitted. If heat input data is used, the owner or operator must comply with the applicable provisions of 40 CFR 75, as incorporated by reference in Section 225.140.

2) By June 1, 2008, the gross electrical output for control periods 2006 and 2007, if available, and the unit's useful thermal energy data, if applicable. If a generator is served by two or more units, the documentation needed to determine each unit's share of the heat input of such units for that control period must also be submitted. If heat input data is used, the owner or operator must comply with the applicable provisions of 40 CFR 75, as incorporated by reference in Section 225.140.

d) Beginning with 2008, the CAIR designated representative of the CAIR NO_x Ozone Season unit must submit to the Agency quarterly, by no later than April 30,

July 31, October 31, and January 31 of each year, information for the CAIR NO_x Ozone Season unit's gross electrical output, on a monthly basis for the prior quarter, and, if applicable, the unit's useful thermal energy for each month.

e) The owner or operator of a CAIR NO_x Ozone Season unit must maintain on-site the monitoring plan detailing the monitoring system, maintenance of the monitoring system, including quality assurance activities pursuant to the requirements of 40 CFR 60 or 75, as applicable, including the appropriate provisions for the measurement of gross electrical output for the CAIR NO_x Ozone Season Trading Program and, if applicable, for new units. The monitoring plan must include, but is not limited to:

1) A description of the system to be used for the measurement of gross electrical output pursuant to Section 225.550(a), including a list of any data logging devices, solid-state kW meters, rotating kW meters, electromechanical kW meters, current transformers, transducers, potential transformers, pressure taps, flow venturi, orifice plates, flow nozzles, vortex meters, turbine meters, pressure transmitters, differential pressure transmitters, temperature transmitters, thermocouples, resistance temperature detectors, and any equipment or methods used to accurately measure gross electrical output.

2) A certification statement by the CAIR designated representative that all components of the gross electrical output system have been tested to be accurate within three percent and that the gross electrical output system is accurate to within ten percent.

f) The owner or operator of a CAIR NO_x Ozone Season unit must retain records for at least five years from the date the record is created or the data is collected under subsections (a) and (b) of this Section, and the reports are submitted to the Agency and USEPA in accordance with subsections (c) and (d) of this Section. The owner or operator of a CAIR NO_x Ozone Season unit must retain the monitoring plan required in subsection (e) of this Section for at least five years from the date that it is replaced by a new or revised monitoring plan.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.555 Clean Air Set-Aside (CASA)

a) A project sponsor may apply for allowances from the CASA for sponsoring an energy efficiency and conservation, renewable energy, or clean technology project as set forth in Section 225.560 by submitting the application required by Section 225.570.

b) Notwithstanding subsection (a) of this Section, a project sponsor with a CAIR NO_x Ozone Season source that is out of compliance with this Subpart for a given control period may not apply for allowances from the CASA for that control period. If a source receives CAIR NO_x Ozone Season allowances from the CASA and then is subsequently found to have been out of compliance with this Subpart for the applicable control period or periods, the project sponsor must restore the CAIR NO_x Ozone Season allowances that it received pursuant to its CASA request or an equivalent number of CAIR NO_x Ozone Season allowances to the CASA within six months after receipt of an Agency notice that NO_x Ozone Season allowances must be restored. These allowances will be assigned to the fund from which they were distributed.

c) CAIR NO_x Ozone Season allowances from the CASA will be allocated in accordance with the procedures in Section 225.575.

d) The project sponsor may submit an application that aggregates two or more projects under a CASA project category that would individually result in less than one allowance, but that equal at a minimum one whole allowance when aggregated.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.560 Energy Efficiency and Conservation, Renewable Energy, and Clean Technology Projects

a) Energy efficiency and conservation projects means any of the following projects implemented and located in Illinois:

1) Demand side management projects that reduce the overall power demand by using less energy include:

A) Smart building management software that more efficiently regulates power flows.

B) The use of or replacement to high efficiency motors, pumps, compressors, or steam systems.

C) Lighting retrofits.

2) Energy efficient new building construction projects include:

A) ENERGY STAR-qualified new home projects.

B) Measures to reduce or conserve energy consumption beyond the requirements of the Illinois Energy Conservation Code for Commercial Buildings [20 ILCS 687/6-3].

C) New residential construction projects that qualify for Energy Efficient Tax Incentives pursuant to the Energy Policy Act of 2005 (42 USC 15801 (2005)).

3) Supply-side energy efficiency projects include projects implemented to improve the efficiency in electricity generation by coal-fired power plants and the efficiency of electrical transmission and distribution systems.

4) Highly efficient power generation projects, such as, but not limited to, combined cycle projects, combined heat and power, and microturbines. To be considered a highly efficient power generation project pursuant to this subsection (a)(4), a project must meet the following applicable thresholds and criteria:

A) For combined heat and power projects generating both electricity and useful thermal energy for space, water, or industrial process heat, a rated-energy efficiency of at least 60 percent: the project shall not be a CAIR NO_x Ozone Season unit.

B) For combined cycle projects rated at greater than 0.50 MW, a rated-energy efficiency of at least 50 percent.

C) For microturbine projects rated at or below 0.50 MW and all other projects a rated-energy efficiency of at least 40 percent.

b) Renewable energy project means any of the following projects implemented and located in Illinois:

1) Zero-emission electric generating projects, including wind, solar (thermal or photovoltaic), and hydropower projects. Eligible hydropower plants are restricted to new generators that are not replacements of existing generators, that commenced operation on or after January 1, 2006, and that do not involve the significant expansion of an existing dam or the construction of a new dam.

2) Renewable energy units are those units that generate electricity using more than 50 percent of the heat input, on an annual basis, from dedicated crops grown for energy production or the capture systems for methane gas from landfills, water treatment plants or sewage treatment plants, and organic waste biomass, and other similar sources of non-fossil fuel energy. Renewable energy projects do not include energy from incineration by burning or heating of waste wood, tires, garbage, general household waste, institutional lunchroom waste, office waste, landscape waste, or construction or demolition debris.

c) Clean technology projects for reducing emissions from producing electricity and useful thermal energy means any of the following projects implemented and located in Illinois:

1) Air pollution control equipment upgrades for control of NO_x emissions at existing coal-fired EGUs, as follows: installation of a selective catalytic reduction (SCR) or selective non-catalytic reduction (SNCR) system, or other emission control technologies. For this purpose, a unit will be considered "existing" after it has been in commercial operation for at least eight years. Air pollution control upgrades do not include the addition of low NO_x burners, overfired air techniques, gas reburning techniques, flue gas conditioning techniques for the control of NO_x emissions, projects involving upgrades or replacement of electrostatic precipitators, or addition of an activated carbon injection, or other sorbent injection for control of mercury.

2) Clean coal technologies projects include:

A) Integrated gasification combined cycle (IGCC) plants.

B) Fluidized bed coal combustion that commenced operation prior to December 31, 2006.

d) In addition to those projects excluded in subsections (a) through (c) of this Section, the following projects are also not energy efficiency and conservation, renewable energy, or clean technology projects:

1) Nuclear power projects.

2) Projects required to meet emission standards or technology requirements under State or federal law or regulation, except that allowances may be allocated for projects undertaken pursuant to Section 225.233 or Subpart F.

3) Projects used to meet the requirements of a court order or consent decree, except that allowances may be allocated for:

A) Emission rates or limits achieved that are lower than what is required to meet the emission rates or limits for SO_2 or NO_x, or for installing a baghouse as provided for in a court order or consent decree entered into before May 30, 2006.

B) Projects used to meet the requirements of a court order or consent decree entered into on or after May 30, 2006, if the court order or consent decree does not specifically preclude such allocations.

4) A Supplemental Environmental Project (SEP).

e) Applications for projects implemented and located in Illinois that are not specifically listed in subsections (a) through (c) of this Section, and that are not specifically excluded by definition in subsections (a) through (c) of this Section or by specific exclusion in subsection (d) of this Section, may be submitted to the Agency. The application must designate which category or categories from those listed in subsections (a)(1) through (c)(2)(B) of this Section best fit the proposed project and the applicable formula pursuant to Section 225.565(b) to calculate the number of allowances that it is requesting. The Agency will determine whether the application is approvable based on a sufficient demonstration by the project sponsor that the project is a new type of energy efficiency, renewable energy, or

clean technology project, similar in its effects as the projects specifically listed in subsections (a) through (c) of this Section.

f) Early adopter projects include projects that meet the criteria for any energy efficiency and conservation, renewable energy, or clean technology projects listed in subsections (a) , (b), (c), and (e) of this Section and commence construction between July 1, 2006 and December 31, 2012.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.565 Clean Air Set-Aside (CASA) Allowances

a) The CAIR NO_x Ozone Season allowances for the CASA for each control period will be assigned to the following categories of projects:

		Phase I (2009-2014)	Phase II (2015 and thereafter)
1)	Energy Efficiency and Conservation/Renewable Energy	3684	3479
2)	Air Pollution Control Equipment Upgrades	1535	1448
3)	Clean Coal Technology Projects	1842	1738
4)	Early Adopters	614	580

b) The following formulas must be used to determine the number of CASA allowances that may be allocated to a project per control period:

1) For an energy efficiency and conservation project pursuant to Section 225.560(a)(1) through (a)(4)(A), the number of allowances must be calculated using the number of megawatt hours of electricity that was not consumed during a control period and the following formula:

$$A = (MWh_c) \times (1.5 \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project.

MWh_c = The number of megawatt hours of electricity conserved or

generated during a control period by a project.

2) For a zero emission electric generating project pursuant to Section 225.560(b)(1), the number of allowances must be calculated using the number of megawatt hours of electricity generated during a control period and the following formula:

$$A = (MWh_g) \times (2.0\ lb/MWh) / 2000\ lb$$

Where:

A = The number of allowances for a particular project

MWh_g = The number of megawatt hours of electricity generated during a control period by a project.

3) For a renewable energy emission unit pursuant to Section 225.560(b)(2), the number of allowances must be calculated using the number of megawatt hours of electricity generated during a control period and the following formula:

$$A = (MWh_g) \times (0.5\ lb/MWh) / 2000\ lb$$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of MW hours of electricity generated during a control period by a project.

4) For an air pollution control equipment upgrade project pursuant to Section 225.560(c)(1), the number of allowances must be calculated using the emission rate before and after replacement or improvement, and the following formula:

$$A = (MWh_g) \times 0.10 \times (ER_B\ lb/MWh - ER_A\ lb/MWh) / 2000\ lb$$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of MWhs of electricity generated during a control period by a project.

ER_B = Average NO_x emission rate based on CEMS data from the most recent two control periods prior to the replacement or improvement of the control equipment in lb/MWh, unless subject to a consent decree or court order. For units subject to a consent decree or court order entered into before May 30, 2006, ER_B is limited to emission rates or limits that are lower than the emission rate or limit required in the consent decree or court order. On or after May 30, 2006, ER_B is limited to emission rates or limits specified in the consent decree or court order. If such limit is not expressed in lb/MWh, the limit shall be converted into lb/MWh using a heat rate of 10 mmBtu/1 MW.

ER_A = Average NO_x emission rate for the applicable control period data based on CEMS data in lb/MWh.

5) For highly efficient power generation and clean coal technology projects:

A) For projects other than fluidized coal combustion pursuant to Section 225.560(a)(4)(B), (a)(4)(C), and (c)(2), the number of allowances must be calculated using the number of MWh of electricity the project generates during a control period and the following formula:

$$A = (MWh_g) \times (1.0 \text{ lb/MWh} - ER \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of megawatt hours of electricity generated during a control period by a project.

ER = Annual average NO_x emission rate based on CEMS data in 1b/MWh.

B) For fluidized bed coal combustion projects pursuant to Section 225.560(c)(2), the number of allowances shall be calculated using

the number of gross MWh of electricity the project generates during a control period and the following formula:

$$A = (MWh_g) \times (1.4 \text{ lb/MWh} - ER \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project.
MWh_g = The number of gross MWh of electricity generated during a control period by a project.
ER = Annual NO_x emission rate for the control period based on CEMS data in lb/MWh.

6) For a CASA project that commences construction before December 31, 2012, in addition to the allowances allocated pursuant to subsections (b)(1) through (b)(5) of this Section, a project sponsor may also request additional allowances under the early adopter project category pursuant to Section 225.560(e) based on the following formula:

$$A = 1.0 + 0.10 \times S\ A_i$$

Where:

A = The number of allowances for a particular project as determined in subsections (b)(1) through (b)(5) of this Section.
A_i = The number of allowances as determined in subsection (b)(1), (b)(2), (b)(3), (b)(4) or (b)(5) of this Section for a given project.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.570 Clean Air Set-Aside (CASA) Applications

a) A project sponsor may request allowances if the project commenced construction on or after the dates listed in this subsection. The project sponsor may request and be allocated allowances from more than one CASA category for a project, if applicable.

1) Demand side management, energy efficient new construction, and supply side energy efficiency and conservation projects that commenced construction on or after January 1, 2003;

2) Fluidized bed coal combustion projects, highly efficient power generation operations projects, or renewable energy emission units, that commenced construction on or after January 1, 2001; and

3) All other projects on or after July 1, 2006.

b) Beginning with the 2009 control period and each control period thereafter, a project sponsor may request allowances from the CASA. The application must be submitted to the Agency by May 1 of the control period for which the allowances are being requested.

c) The allocation will be based on the electricity conserved or generated in the control period preceding the calendar year in which the application is submitted. To apply for a CAIR NO_x Ozone Season allocation from the CASA, project sponsors must provide the Agency with the following information:

1) Identification of the project sponsor, including name, address, type of organization, certification that the project sponsor has met the definition of "project sponsor" as set forth in Section 225.130, and names of the principals or corporate officials.

2) The number of the CAIR NO_x Ozone Season general or compliance account for the project and the name of the associated CAIR account representative.

3) A description of the project or projects, location, the role of the project sponsor in the projects, and a general explanation of how the amount of energy conserved or generated was measured, verified, and calculated, and the number of allowances requested with the supporting calculations. The number of allowances requested will be calculated using the applicable formula from Section 225.570(b).

4) Detailed information to support the request for allowances, including the following types of documentation for the measurement and verification of the NO_x emissions reductions, electricity generated, or electricity

conserved using established measurement verification procedures, as applicable. The measurement and verification required will depend on the type of project proposed.

A) As applicable, documentation of the project's base and control period conditions and resultant base and control period energy data, using the procedures and methods included in M&V Guidelines: Measurement and Verification for Federal Energy Projects, incorporated by reference in Section 225.140, or other method approved by the Agency. Examples include:

i) Energy consumption and demand profiles;

ii) Occupancy type;

iii) Density and periods;

iv) Space conditions or plant throughput for each operating period and season. (For example, in a building this would include the light level and color, space temperature, humidity and ventilation);

v) Equipment inventory, nameplate data, location, and condition; and

vi) Equipment operating practices (schedules and set points, actual temperatures/pressures);

B) Emissions data, including, if applicable, CEMS data;

C) Information for rated-energy efficiency, including supporting documentation and calculations; and

D) Electricity, in MWh, generated or conserved for the applicable control period.

5) Notwithstanding the requirements of subsection (c)(4) of this Section, applications for fewer than five allowances may propose other reliable and applicable methods of quantification acceptable to the Agency.

6) Any additional information requested by the Agency to determine the correctness of the requested number of allowances, including site information, project specifications, supporting calculations, operating procedures, and maintenance procedures.

7) The following certification by the responsible official for the project sponsor and the applicable CAIR account representative for the project:

"I am authorized to make this submission on behalf of the project sponsor and the holder of the CAIR NO_x Ozone Season general account or compliance account for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this application and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information."

d) A project sponsor may request allowances from the CASA for each project for a total number of control periods not to exceed the number of control periods listed in this subsection. After a project has been allocated allowances from the CASA, subsequent requests for the project from the project sponsor must include the information required by subsections (c)(1), (c)(2), (c)(3) and (c)(7) of this Section, a description of any changes or further improvements made to the project, and information specified in subsections (c)(5) and (c)(6) as specifically requested by the Agency.

1) For energy efficiency and conservation projects (except for efficient operation and renewable energy projects), for a total of eight control periods.

2) For early adopter projects, for a total of ten control periods.

3) For air pollution control equipment upgrades, for a total of 15 control periods.

4) For renewable energy projects, clean coal technology, and highly efficient power generation projects, for each year that the project is in operation.

e) A project sponsor must keep copies of all CASA applications and the documentation used to support the application for at least five years.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.575 Agency Action on Clean Air Set-Aside (CASA) Applications

a) By September 1, 2009 and each September 1 thereafter, the Agency will determine the total number of allowances that are approvable for allocation to project sponsors based upon the applications submitted pursuant to Section 225.570.

1) The Agency will determine the number of CAIR NO_x Ozone Season allowances that are approvable based on the formulas and the criteria for such projects. The Agency will notify a project sponsor within 90 days after receipt of an application if the project is not approvable, the number of allowances requested is not approvable, or additional information is needed by the Agency to complete its review of the application.

2) If the total number of CAIR NO_x Ozone Season allowances requested for approved projects is less than or equal to the number of CAIR NO_x Ozone Season allowances in the CASA project category, the number of allowances that are approved shall be allocated to each CAIR NO_x Ozone Season compliance or general account.

3) If more CAIR NO_x Ozone Season allowances are requested than the number of CAIR NO_x Ozone Season allowances in a given CASA project category, allowances will be allocated on a pro-rata basis based on the number of allowances available, subject to further adjustment as provided for by subsection (b) of this Section. CAIR NO_x Ozone Season allowances will be allocated, transferred, or used as whole allowances. The number of whole allowances will be determined by rounding down for decimals less than 0.5 and rounding up for decimals of 0.5 or greater.

b) For control periods 2011 and thereafter:

1) If there are, after the completion of the procedures in subsection (a) of this Section for a control period, any CAIR NO_x Ozone Season allowances not allocated to a CASA project for the control period, the remaining allowances will accrue in each CASA project category up to twice the number of allowances that are assigned to the project category for each control period as set forth in Section 225.565.

2) If any allowances remain after allocations pursuant to subsection (a) of this Section, the Agency will allocate these allowances pro-rata to projects that received fewer allowances than requested, based on the number of allowances not allocated but approved by the Agency for the project under CASA. No project may be allocated more allowances than approved by the Agency for the applicable control period.

3) If any allowances remain after the allocation of allowances pursuant to subsection (b)(2) of this Section, the Agency will then distribute pro-rata the remaining allowances to project categories that have fewer than twice the number of allowances assigned to the project category. The pro-rata distribution will be based on the difference between two times the project category and the number of allowances that remain in the project category.

4) If allowances still remain undistributed after the allocations and distributions in the subsections (b)(1) through (b)(3) are completed, the Agency may elect to retire any CAIR NO_x Ozone Season allowances that have not been distributed to any CASA category, to continue progress toward attainment or maintenance of the National Ambient Air Quality Standards pursuant to the CAA.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

SUBPART F: COMBINED POLLUTANT STANDARDS

Section 225.600 Purpose

The purpose of this Subpart F is to allow an alternate means of compliance with the emissions standards for mercury in Section 225.230(a) for specified EGUs through permanent shut-down, installation of ACI, and the application of pollution control technology for NO_x, PM, and SO_2 emissions that also reduce mercury emissions as a co-benefit and to establish permanent emissions standards for those specified EGUs. Unless otherwise provided for in this Subpart F,

owners and operators of those specified EGUs are not excused from compliance with other applicable requirements of Subparts B, C, D, and E.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.605 Applicability

a) As an alternative to compliance with the emissions standards of Section 225.230(a), the owner or operator of specified EGUs in this Subpart F located at Fisk, Crawford, Joliet, Powerton, Waukegan, and Will County power plants may elect for all of those EGUs as a group to demonstrate compliance pursuant to this Subpart F, which establishes control requirements and emissions standards for NO_x, PM, SO_2, and mercury. For this purpose, ownership of a specified EGU is determined based on direct ownership, by holding a majority interest in a company that owns the EGU or EGUs, or by the common ownership of the company that owns the EGU, whether through a parent-subsidiary relationship, as a sister corporation, or as an affiliated corporation with the same parent corporation, provided that the owner or operator has the right or authority to submit a CAAPP application on behalf of the EGU.

b) A specified EGU is a coal-fired EGU listed in Appendix A, irrespective of any subsequent changes in ownership of the EGU or power plant, the operator, unit designation, or name of unit.

c) The owner or operator of each of the specified EGUs electing to demonstrate compliance with Section 225.230(a) pursuant to this Subpart must submit an application for a CAAPP permit modification to the Agency, as provided for in Section 225.220, that includes the information specified in Section 225.610 that clearly states the owner's or operator's election to demonstrate compliance with Section 225.230(a) pursuant to this Subpart F.

d) If an owner or operator of one or more specified EGUs elects to demonstrate compliance with Section 225.230(a) pursuant to this Subpart F, then all specified EGUs owned or operated in Illinois by the owner or operator as of December 31, 2006, as defined in subsection (a) of this Section, are thereafter subject to the standards and control requirements of this Subpart F. Such EGUs are referred to as a Combined Pollutant Standard (CPS) group.

e) If an EGU is subject to the requirements of this Section, then the requirements apply to all owners and operators of the EGU, and to the CAIR designated representative for the EGU.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.610 Notice of Intent

The owner or operator of one or more specified EGUs that intends to comply with Section 225.230(a) by means of this Subpart F must notify the Agency of its intention on or before December 31, 2007. The following information must accompany the notification:

a) The identification of each EGU that will be complying with Section 225.230(a) pursuant to this Subpart F, with evidence that the owner or operator has identified all specified EGUs that it owned or operated in Illinois as of December 31, 2006, and which commenced commercial operation on or before December 31, 2004;

b) If an EGU identified in subsection (a) of this Section is also owned or operated by a person different than the owner or operator submitting the notice of intent, a demonstration that the submitter has the right to commit the EGU or authorization from the responsible official for the EGU submitting the application; and

c) A summary of the current control devices installed and operating on each EGU and identification of the additional control devices that will likely be needed for each EGU to comply with emission control requirements of this Subpart F.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.615 Control Technology Requirements and Emissions Standards for Mercury

a) Control Technology Requirements for Mercury.

1) For each EGU in a CPS group other than an EGU that is addressed by subsection (b) of this Section, the owner or operator of the EGU must install, if not already installed, and properly operate and maintain, by the dates set forth in subsection (a)(2) of this Section, ACI equipment complying with subsections (g), (h), (i), (j), and (k) of this Section, as applicable.

2) By the following dates, for the EGUs listed in subsections (a)(2)(A) and (B), which include hot and cold side ESPs, the owner or operator must install, if not already installed, and begin operating ACI equipment or the Agency must be given written notice that the EGU will be shut down on or before the following dates:

A) Fisk 19, Crawford 7, Crawford 8, Waukegan 7, and Waukegan 8 on or before July 1, 2008; and

B) Powerton 5, Powerton 6, Will County 3, Will County 4, Joliet 6, Joliet 7, and Joliet 8 on or before July 1, 2009.

b) Notwithstanding subsection (a) of this Section, the following EGUs are not required to install ACI equipment because they will be permanently shut down, as addressed by Section 225.630, by the date specified:

1) EGUs that are required to permanently shut down:

A) On or before December 31, 2007, Waukegan 6; and

B) On or before December 31, 2010, Will County 1 and Will County 2.

2) Any other specified EGU that is permanently shut down by December 31, 2010.

c) Beginning on January 1, 2015 and continuing thereafter, and measured on a rolling 12-month basis (the initial period is January 1, 2015, through December 31, 2015, and, then, for every 12-month period thereafter), each specified EGU, except Will County 3, shall achieve one of the following emissions standards:

1) An emissions standard of 0.0080 lbs mercury/GWh gross electrical output; or

2) A minimum 90 percent reduction of input mercury.

d) Beginning on January 1, 2016, and continuing thereafter, Will County 3 shall achieve the mercury emissions standards of subsection (c) of this Section

measured on a rolling 12-month basis (the initial period is January 1, 2016 through December 31, 2016, and, then, for every 12-month period thereafter).

e) At any time prior to the dates required for compliance in subsections (c) and (d) of this Section, the owner or operator of a specified EGU, upon notice to the Agency, may elect to comply with the emissions standards of subsection (c) of this Section measured on a rolling 12-month basis for one or more EGUs. Once an EGU is subject to the mercury emissions standards of subsection (c) of this Section, it shall not be subject to the requirements of subsections (g), (h), (i), (j) and (k) of this Section.

f) Compliance with the mercury emissions standards or reduction requirement of this Section must be calculated in accordance with Section 225.230(a) or (b).

g) For each EGU for which injection of halogenated activated carbon is required by subsection (a)(1) of this Section, the owner or operator of the EGU must inject halogenated activated carbon in an optimum manner, which, except as provided in subsection (h) of this Section, is defined as all of the following:

1) The use of an injection system for effective absorption of mercury, considering the configuration of the EGU and its ductwork;

2) The injection of halogenated activated carbon manufactured by Alstom, Norit, or Sorbent Technologies, or the injection of any other halogenated activated carbon or sorbent that the owner or operator of the EGU has demonstrated to have similar or better effectiveness for control of mercury emissions; and

3) The injection of sorbent at the following minimum rates, as applicable:

A) For an EGU firing subbituminous coal, 5.0 lbs per million actual cubic feet or, for any cyclone-fired EGU that will install a scrubber and baghouse by December 31, 2012, and which already meets an emission rate of 0.020 lb mercury/GWh gross electrical output or at least 75 percent reduction of input mercury, 2.5 lbs per million actual cubic feet;

B) For an EGU firing bituminous coal, 10.0 lbs per million actual cubic feet or, for any cyclone-fired EGU that will install a scrubber

and baghouse by December 31, 2012, and which already meets an emission rate of 0.020 lb mercury/GWh gross electrical output or at least 75 percent reduction of input mercury, 5.0 lbs per million actual cubic feet;

C) For an EGU firing a blend of subbituminous and bituminous coal, a rate that is the weighted average of the rates specified in subsections (g)(3)(A) and (B), based on the blend of coal being fired; or

D) A rate or rates set lower by the Agency, in writing, than the rate specified in any of subsection (g)(3)(A), (B), or (C) of this Section on a unit-specific basis, provided that the owner or operator of the EGU has demonstrated that such rate or rates are needed so that carbon injection will not increase particulate matter emissions or opacity so as to threaten noncompliance with applicable requirements for particulate matter or opacity.

4) For purposes of subsection (g)(3) of this Section, the flue gas flow rate must be determined for the point sorbent injection; provided that this flow rate may be assumed to be identical to the stack flow rate if the gas temperatures at the point of injection and the stack are normally within 100º F, or the flue gas flow rate may otherwise be calculated from the stack flow rate, corrected for the difference in gas temperatures.

h) The owner or operator of an EGU that seeks to operate an EGU with an activated carbon injection rate or rates that are set on a unit-specific basis pursuant to subsection (g)(3)(D) of this Section must submit an application to the Agency proposing such rate or rates, and must meet the requirements of subsections (h)(1) and (h)(2) of this Section, subject to the limitations of subsections (h)(3) and (h)(4) of this Section:

1) The application must be submitted as an application for a new or revised federally enforceable operation permit for the EGU, and it must include a summary of relevant mercury emissions data for the EGU, the unit-specific injection rate or rates that are proposed, and detailed information to support the proposed injection rate or rates; and

2) This application must be submitted no later than the date that activated carbon must first be injected. For example, the owner or operator of an EGU that must inject activated carbon pursuant to subsection (a)(1) of this Section must apply for unit-specific injection rate or rates by July 1, 2008. Thereafter, the owner or operator may supplement its application; and

3) Any decision of the Agency denying a permit or granting a permit with conditions that set a lower injection rate or rates may be appealed to the Board pursuant to Section 39 of the Act; and

4) The owner or operator of an EGU may operate at the injection rate or rates proposed in its application until a final decision is made on the application including a final decision on any appeal to the Board.

i) During any evaluation of the effectiveness of a listed sorbent, alternative sorbent, or other technique to control mercury emissions, the owner or operator of an EGU need not comply with the requirements of subsection (g) of this Section for any system needed to carry out the evaluation, as further provided as follows:

1) The owner or operator of the EGU must conduct the evaluation in accordance with a formal evaluation program submitted to the Agency at least 30 days prior to commencement of the evaluation; and

2) The duration and scope of the evaluation may not exceed the duration and scope reasonably needed to complete the desired evaluation of the alternative control techniques, as initially addressed by the owner or operator in a support document submitted with the evaluation program; and

3) The owner or operator of the EGU must submit a report to the Agency no later than 30 days after the conclusion of the evaluation that describes the evaluation conducted and which provides the results of the evaluation; and

4) If the evaluation of alternative control techniques shows less effective control of mercury emissions from the EGU than was achieved with the principal control techniques, the owner or operator of the EGU must resume use of the principal control techniques. If the evaluation of the alternative control technique shows comparable effectiveness to the principal control technique, the owner or operator of the EGU may either

continue to use the alternative control technique in a manner that is at least as effective as the principal control technique or it may resume use of the principal control technique. If the evaluation of the alternative control technique shows more effective control of mercury emissions than the control technique, the owner or operator of the EGU must continue to use the alternative control technique in a manner that is more effective than the principal control technique, so long as it continues to be subject to this Section.

j) In addition to complying with the applicable recordkeeping and monitoring requirements in Sections 225.240 through 225.290, the owner or operator of an EGU that elects to comply with Section 225.230(a) by means of this Subpart F must also comply with the following additional requirements:

1) For the first 36 months that injection of sorbent is required, it must maintain records of the usage of sorbent, the exhaust gas flow rate from the EGU, and the sorbent feed rate, in pounds per million actual cubic feet of exhaust gas at the injection point, on a weekly average;

2) After the first 36 months that injection of sorbent is required, it must monitor activated sorbent feed rate to the EGU, flue gas temperature at the point of sorbent injection, and exhaust gas flow rate from the EGU, automatically recording this data and the sorbent carbon feed rate, in pounds per million actual cubic feet of exhaust gas at the injection point, on an hourly average; and

3) If a blend of bituminous and subbituminous coal is fired in the EGU, it must keep records of the amount of each type of coal burned and the required injection rate for injection of activated carbon on a weekly basis.

k) In addition to complying with the applicable reporting requirements in Sections 225.240 through 225.290, the owner or operator of an EGU that elects to comply with Section 225.230(a) by means of this Subpart F must also submit quarterly reports for the recordkeeping and monitoring conducted pursuant to subsection (j) of this Section.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.620 Emissions Standards for NO_x and SO_2

a) Emissions Standards for NO_x and Reporting Requirements.

1) Beginning with calendar year 2012 and continuing in each calendar year thereafter, the CPS group, which includes all specified EGUs that have not been permanently shut down by December 31 before the applicable calendar year, must comply with a CPS group average annual NO_x emissions rate of no more than 0.11 lbs/mmBtu.

2) Beginning with ozone season control period 2012 and continuing in each ozone season control period (May 1 through September 30) thereafter, the CPS group, which includes all specified EGUs that have not been permanently shut down by December 31 before the applicable ozone season, must comply with a CPS group average ozone season NO_x emissions rate of no more than 0.11 lbs/mmBtu.

3) The owner or operator of the specified EGUs in the CPS group must file, not later than one year after startup of any selective SNCR on such EGU, a report with the Agency describing the NO_x emissions reductions that the SNCR has been able to achieve.

b) Emissions Standards for SO_2. Beginning in calendar year 2013 and continuing in each calendar year thereafter, the CPS group must comply with the applicable CPS group average annual SO_2 emissions rate listed as follows:

year	lbs/mmBtu
2013	0.44
2014	0.41
2015	0.28
2016	0.195
2017	0.15
2018	0.13
2019	0.11

c) Compliance with the NO_x and SO_2 emissions standards must be demonstrated in accordance with Sections 225.310, 225.410, and 225.510. The owner or operator of the specified EGUs must complete the demonstration of compliance pursuant to Section 225.635(c) before March 1 of the following year for annual standards and before November 30 of the particular year for ozone season control periods

(May 1 through September 30) standards, by which date a compliance report must be submitted to the Agency.

d) The CPS group average annual SO_2 emission rate, annual NO_x emission rate and ozone season NO_x emission rates shall be determined as follows:

$$ER_{avg} = \sum_{i=1}^{n} (SO_{2i} \text{ or } NO_{xi} \text{ tons}) / \sum_{i=1}^{n} (HI_i)$$

Where:

ER_{avg} = average annual or ozone season emission rate in lbs/mmbBtu of all EGUs in the CPS group.

HI_i = heat input for the annual or ozone control period of each EGU, in mmBtu.

SO_{2i} = actual annual SO_2 tons of each EGU in the CPS group.

NO_{xi} = actual annual or ozone season NO_x tons of each EGU in the CPS group.

n = number of EGUs that are in the CPS group

i = each EGU in the CPS group

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.625 Control Technology Requirements for NO_x, SO_2, and PM Emissions

a) Control Technology Requirements for NO_x and SO_2.

1) On or before December 31, 2013, the owner or operator must either permanently shut down or install and have operational FGD equipment on Waukegan 7;

2) On or before December 31, 2014, the owner or operator must either permanently shut down or install and have operational FGD equipment on Waukegan 8;

3) On or before December 31, 2015, the owner or operator must either permanently shut down or install and have operational FGD equipment on Fisk 19;

4) If Crawford 7 will be operated after December 31, 2018, and not permanently shut down by this date, the owner or operator must:

A) On or before December 31, 2015, install and have operational SNCR or equipment capable of delivering essentially equivalent NO_x reductions on Crawford 7; and

B) On or before December 31, 2018, install and have operational FGD equipment on Crawford 7;

5) If Crawford 8 will be operated after December 31, 2017 and not permanently shut down by this date, the owner or operator must:

A) On or before December 31, 2015, install and have operational SNCR or equipment capable of delivering essentially equivalent NO_x emissions reductions on Crawford 8; and

B) On or before December 31, 2017, install and have operational FGD equipment on Crawford 8.

b) Other Control Technology Requirements for SO_2. Owners or operators of specified EGUs must either permanently shut down or install FGD equipment on each specified EGU (except Joliet 5), on or before December 31, 2018, unless an earlier date is specified in subsection (a) of this Section.

c) Control Technology Requirements for PM. The owner or operator of the two specified EGUs listed in this subsection that are equipped with a hot-side ESP must replace the hot-side ESP with a cold-side ESP, install an appropriately designed fabric filter, or permanently shut down the EGU by the dates specified. Hot-side ESP means an ESP on a coal-fired boiler that is installed before the boiler's air-preheater where the operating temperature is typically at least 550º F, as distinguished from a cold-side ESP that is installed after the air pre-heater where the operating temperature is typically no more than 350º F.

1) Waukegan 7 on or before December 31, 2013; and

2) Will County 3 on or before December 31, 2015.

d) Beginning on December 31, 2008, and annually thereafter up to and including December 31, 2015, the owner or operator of the Fisk power plant must submit in writing to the Agency a report on any technology or equipment designed to affect air quality that has been considered or explored for the Fisk power plant in the preceding 12 months. This report will not obligate the owner or operator to install any equipment described in the report.

e) Notwithstanding 35 Ill. Adm. Code 201.146(hhh), until an EGU has complied with the applicable requirements of subsections 225.625(a), (b), and (c), the owner or operator of the EGU must obtain a construction permit for any new or modified air pollution control equipment that it proposes to construct for control of emissions of mercury, NO_x, PM, or SO_2.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.630 Permanent Shut-Downs

a) The owner or operator of the following EGUs must permanently shut down the EGU by the dates specified:

1) Waukegan 6 on or before December 31, 2007; and

2) Will County 1 and Will County 2 on or before December 31, 2010.

b) No later than 8 months before the date that a specified EGU will be permanently shut down, the owner or operator must submit a report to the Agency that includes a description of the actions that have already been taken to allow the shutdown of the EGU and a description of the future actions that must be accomplished to complete the shutdown of the EGU, with the anticipated schedule for those actions and the anticipated date of permanent shutdown of the unit.

c) No later than six months before a specified EGU will be permanently shut down, the owner or operator shall apply for revisions to the operating permits for the EGU to include provisions that terminate the authorization to operate the unit on that date.

d) If after applying for or obtaining a construction permit to install required control equipment, the owner or operator decides to permanently shut down a Specified EGU rather than install the required control technology, the owner or operator must immediately notify the Agency in writing and thereafter submit the information required by subsections (b) and (c) of this Section.

e) Failure to permanently shut down a specified EGU by the required date shall be considered separate violations of the applicable emissions standards and control technology requirements of this Subpart F for NO_x, PM, SO_2, and mercury.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.635 Requirements for CAIR SO_2, CAIR NO_x, and CAIR NO_x Ozone Season Allowances

a) The following requirements apply to the owner, the operator and the designated representative with respect to CAIR SO_2, CAIR NO_x, and CAIR NO_x Ozone Season allowances:

1) The owner, operator, and CAIR designated representative of specified EGUs in a CPS group is permitted to sell, trade, or transfer SO_2 and NO_x emissions allowances of any vintage owned, allocated to, or earned by the specified EGUs (the "CPS allowances") to its affiliated Homer City, Pennsylvania generating station for as long as the Homer City Station needs the CPS allowances for compliance.

2) When and if the Homer City Station no longer requires all of the CPS allowances, the owner, operator, or CAIR designated representative of specified EGUs in CPS group may sell any and all remaining CPS allowances, without restriction, to any person or entity located anywhere, except that the owner or operator may not directly sell, trade, or transfer CPS allowances to a CAIR NO_x or CAIR SO_2 unit located in Ohio, Indiana, Illinois, Wisconsin, Michigan, Kentucky, Missouri, Iowa, Minnesota, or Texas.

3) In no event shall this subsection (a) require or be interpreted to require any restriction whatsoever on the sale, trade, or exchange of the CPS allowances by persons or entities who have acquired the CPS allowances

from the owner, operator, or CAIR designated representative of specified EGUs in a CPS group.

b) The owner, operator, and CAIR designated representative of EGUs in a specified CPS group is prohibited from purchasing or using CAIR SO_2, CAIR NO_x, and CAIR NO_x Ozone Season allowances for the purposes of meeting the SO_2 and NO_x emissions standards set forth in Section 225.620.

c) Before March 1, 2010, and continuing each year thereafter, the CAIR designated representative of the EGUs in a CPS group must submit a report to the Agency that demonstrates compliance with the requirements of this Section for the previous calendar year and ozone season control period (May 1 through September 30), and includes identification of any CAIR allowances that have been used for compliance with the CAIR Trading Programs as set forth in Subparts C, D, and E, and any CAIR allowances that were sold, gifted, used, exchanged, or traded. A final report must be submitted to the Agency by August 31 of each year, providing either verification that the actions described in the initial report have taken place, or, if such actions have not taken place, an explanation of the changes that have occurred and the reasons for such changes.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

Section 225.640 Clean Air Act Requirements

The SO_2 emissions rates set forth in this Subpart F shall be deemed to be best available retrofit technology ("BART") under the Visibility Protection provisions of the CAA (42 USC 7491), reasonably available control technology ("RACT") and reasonably available control measures ("RACM") for achieving fine particulate matter ("$PM_{2.5}$") requirements under NAAQS in effect on August 31, 2007, as required by the CAA (42 USC 7502). The Agency may use the SO_2 and NO_x emissions reductions required under this Subpart F in developing attainment demonstrations and demonstrating reasonable further progress for $PM_{2.5}$ and 8 hour ozone standards, as required under the CAA. Furthermore, in developing rules, regulations, or State Implementation Plans designed to comply with $PM_{2.5}$ and 8 hour ozone NAAQS, the Agency, taking into account all emission reduction efforts and other appropriate factors, will use best efforts to seek SO_2 and NO_x emissions rates from other EGUs that are equal to or less than the rates applicable to the CPS group and will seek SO_2 and NO_x reductions from other sources before seeking additional emissions reductions from any EGU in the CPS group.

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

225.APPENDIX A Specified EGUs for Purposes of Subpart F (Midwest Generation's Coal-Fired Boilers as of July 1, 2006)

Plant	Permit Number	Boiler	Permit designation	Subpart F Designation
Crawford	031600AIN	7	Unit 7 Boiler BLR1	Crawford 7
		8	Unit 8 Boiler BLR2	Crawford 8
Fisk	031600AMI	19	Unit 19 Boiler BLR19	Fisk 19
Joliet	197809AAO	71	Unit 7 Boiler BLR71	Joliet 7
		72	Unit 7 Boiler BLR72	Joliet 7
		81	Unit 8 Boiler BLR81	Joliet 8
		82	Unit 8 Boiler BLR82	Joliet 8
		5	Unit 6 Boiler BLR5	Joliet 6
Powerton	179801AAA	51	Unit 5 Boiler BLR51	Powerton 5
		52	Unit 5 Boiler BLR52	Powerton 5
		61	Unit 6 Boiler BLR61	Powerton 6
		62	Unit 6 Boiler BLR62	Powerton 6
Waukegan	097190AAC	17	Unit 6 Boiler BLR17	Waukegan 6
		7	Unit 7 Boiler BLR7	Waukegan 7
		8	Unit 8 Boiler BLR8	Waukegan 8
Will County	197810AAK	1	Unit 1 Boiler BLR1	Will County 1
		2	Unit 2 Boiler BLR2	Will County 2
		3	Unit 3 Boiler BLR3	Will County 3
		4	Unit 4 Boiler BLR4	Will County 4

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Medication

2) Code Citation: 11 Ill. Adm. Code 603

3)

Section Numbers:	Adopted Action:
603.60	Amendment
603.140	Amendment
603.160	Amendment

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

5) Effective Date of Rulemaking: September 1, 2007

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

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 6665; May 4, 2007

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: In Section 306.160(d)(1) and (2), changed a reference to Class 4 and 5 drugs as defined in the "most current" ARCI guidelines to those drugs as defined in the April 2005 guidelines and specified that the incorporation by reference includes no later amendments or editions. In Section 603.160(d)(2), clarified that purse money may be re-distributed according to the criteria set forth in Section 603.160(d)(3).

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

13) Will these amendments replace any emergency amendments currently in effect? Yes. See 31 Ill. Reg. 6680 in the May 4, 2007 *Illinois Register*.

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

15) Summary and purpose of rulemaking: The adopted amendments implement actions passed by the Board at its March 13, 2007 meeting. The actions taken by the Board are a result of recommendations made by the Illinois Racing Board Medication Task Force. The Task Force recommended discretionary, not mandatory, disqualification and purse redistributions for Class 4 and Class 5 drugs (Section 603.140(d)). Class 4 and 5 drugs are generally those therapeutic drugs used during training for inflammation, soreness, or for analgesic reasons. If a Class 4 or 5 drug is present in the horse's system, the trainer remains subject to a civil penalty. The stewards are given specific criteria to decide whether a purse shall be redistributed, such as recommendations by the State Veterinarian and State Chemist, as to the significance of the level of drug.

The Task Force also recommended developing threshold levels (Section 603.60(f)) for two therapeutic drugs that appear to stay in the horse's system for long periods of time and are, therefore, problematic, Isoxsuprine (Class 4) and Pyrilamine (Class 3). A threshold level for Pyrilamine is not included in this rulemaking because the research at this time is incomplete. The rulemaking also includes a retroactivity clause.

These amendments are progressive and necessary due to the advances of drug testing technologies that now make it possible to detect drugs in trace level concentrations.

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

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 603
MEDICATION

Section

603.10 Pre-Race Saliva Tests
603.20 Racing Soundness Exam
603.30 Foreign Substances and Pharmaceutical Aids Banned
603.40 Twenty-four Hour Ban
603.50 Trainer Responsibility
603.55 Prima Facie Evidence
603.60 Permitted Use of Foreign Substances and Threshold Levels
603.70 Furosemide
603.75 Environmental Contaminants
603.80 Needles, Syringes and Injectables
603.90 Drugs, Chemicals and Prescription Items
603.100 Detention Barn
603.110 Test Samples
603.120 Referee Samples
603.130 Laboratory Findings and Reports
603.140 Distribution of Purses
603.150 Post Mortems
603.160 Penalties
603.170 Veterinarian's Records
603.180 Carbon Dioxide Tests
603.190 Erythropoietin and Darbepoietin Antibody Testing Program

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

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August 1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at

28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28 Ill. Reg. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5726, effective April 8, 2005; amended at 29 Ill. Reg. 12265, effective July 24, 2005; amended at 29 Ill. Reg. 14038, effective September 1, 2005; emergency amendment at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18729, effective November 20, 2006; amended at 31 Ill. Reg. 1478, effective January 1, 2007; emergency amendment at 31 Ill. Reg. 6680, effective April 23, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 12982, effective September 1, 2007.

Section 603.60 Permitted Use of Foreign Substances and Threshold Levels

a) Non-Steroidal Anti-Inflammatories (NSAID): Threshold Levels

1) Only one non-steroidal anti-inflammatory drug (NSAID) may be present in a horse's body while it is participating in a race. The presence of more than one NSAID, greater than the threshold level, is forbidden and will result in the purse being redistributed.

2) Subject to the prohibition contained in Section 603.40 (24 hour ban), the only foreign substances that now meet the criteria established in Section 603.80 are phenylbutazone (or its metabolite oxyphenylbutazone), flunixin, and ketoprofen.

3) The threshold level of phenylbutazone shall be less than 5.0 micrograms (mcg) per~~/~~ milliliter (ml) of serum or plasma. The threshold level for oxyphenylbutazone shall be less than 5.0 mcg/ml of serum or plasma.

A) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 5.0 mcg/ml but less than 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:

i) first offense, minimum fine of $250;

ii) second offense, minimum fine of $500;

iii) third or subsequent offense, minimum fine of $1,000 and a 15 day suspension.

B) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:

i) first offense, minimum fine of $500 and the purse shall be redistributed;

ii) second offense, minimum fine of $1,000, a 15 day suspension and the purse shall be redistributed;

iii) third or subsequent offense, minimum fine of $2,500, a 30 day suspension and the purse shall be redistributed.

4) The threshold level of flunixin shall be less than 20.0 ng/ml of serum or plasma and the threshold level of ketoprofen shall be less than 10.0 ng/ml of serum or plasma. In the event a post-race sample from a horse contains an amount of:

A) flunixin greater than or equal to 20.0 ng/ml but less than 100.0 ng/ml or ketoprofen greater than or equal to 10.0 ng/ml but less than 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:

i) first offense, minimum fine of $250;

ii) second offense, minimum fine of $500;

iii) third or subsequent offense, minimum fine of $1,000 and a 15 day suspension.

B) flunixin greater than or equal to 100.0 ng/ml or ketoprofen greater than or equal to 50.0 ng/ml, the trainer shall be subject to the

following penalties, within a 365 day period, and absent mitigating circumstances:

i) first offense, minimum fine of $500 and the purse shall be redistributed;

ii) second offense, minimum fine of $1,000, a 15 day suspension and the purse shall be redistributed;

iii) third or subsequent offense, minimum fine of $2,500, a 30 day suspension and the purse shall be redistributed.

5) If the phenylbutazone, oxyphenylbutazone, flunixin or ketoprofen overage is due to the negligence of the veterinarian attending the horse, the veterinarian shall be subject to the same penalties as are set forth in subsections (a)(3)(A) and (B) and (a)(4)(A) and (B).

6) To help horsemen determine the test levels of phenylbutazone, oxyphenylbutazone, flunixin, and ketoprofen, the Board laboratory will test, for the actual cost of processing the sample, all equine serum or plasma samples submitted to it that are accompanied by an affidavit indicating time, method, and route of administration.

7) Penalties for violations of this Section shall be based on the following criteria:

A) previous warnings and rulings for violations of this Section;

B) the age and experience of the violator;

C) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;

D) what action, if any, was taken to avoid the violation;

E) the purse of the race.

b) The following foreign substances may be administered externally to a horse entered to a race: Leg paints and liniment which do not contain any "caine"

derivatives, pharmacodynamic and/or chemotherapeutic agents, and which can be applied topically without penetrating the skin.

c) Subject to the prohibition contained in Section 603.40 (24-hour ban), the following foreign substances, commonly referred to as anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drugs, may be present in the body of a horse participating in a race.

1) Anti-Bacterials

Amikacin
Ampicillin
Ampicillin sodium
Azolsulfamide
Chloramphenicol
Doxycycline
Enrofloxacin (Baytril)
Erythromycin sulfate
Gentamicin sulfate
Kanamycin sulfate
Methenamine
Levamisole (tetramisole)
Metronidazole
Neomycin sulfate
Nitrofurantoin
Oxytetracycline
Penicillin G. Benzathine
Penicillin G. Potassium
Sulfadimethozine
Sulfadimethoxine
Sulfamethoxazole
Sulfametranidazole
Sulfapyridine
Sulfathiazole
Tetracycline
Trimethoprim

2) Anti-Fungals

Amphotericin B
Griseofulvin
Neomycin Undecyclenate
Nystatin

3) Anti-Protozoals

Nitazoxanide (Navigator)
Ponazuril (Marquis)
Pyrimethamine (Daraprim)

4) Anti-Ulcers

Cimetidine (Tagamet)
Omeprazole (Prilosec or GastroGard)
Ranitidine (Zantac)

d) This listing of anti-bacterial, anti-fungal, anti-protozoal and anti-ulcer drugs is all inclusive and shall not include any other anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drug.

e) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when threshold levels and guidelines for its use have been approved by the Board and this Part has been duly amended. The Board shall give due consideration to threshold levels and guidelines that have been established by the Quality Assurance Program Committee of the Association of Racing Commissioners International when making additions to the permitted list.

f) Official test samples may contain the following drug substance, or its metabolites, in an amount that does not exceed the threshold level:

The threshold level of Isoxsuprine shall be less than 1,000.0 ng/ml in urine.

g) The provisions of this Section shall be applied retroactively when substantively applicable, including all actions pending before the Board without regard to when the cause of action accrued; provided, however, that this subsection shall not operate to affect rights of individuals that have fully vested prior to April 23, 2007.

(Source: Amended at 31 Ill. Reg. 12982, effective September 1, 2007)

Section 603.140 Distribution of Purses

a) The Board recognizes that occasionally post-race specimens do not reach the laboratory within 72 hours nor can all samples be thoroughly analyzed within 72 hours. However, as a convenience to horsemen, all purse money shall be distributed no later than 72 hours after a race, unless the laboratory has issued a report to the stewards pursuant to these rules.

b) The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no foreign substance has been administered in violation of these rules to the horse winning such purse money.

c) Upon receipt of a positive laboratory report, the stewards or the Executive Director of the Board shall immediately direct that no purse money shall be awarded to the horse in question pending a final determination by the stewards or the Board of the accuracy of the laboratory's report. The stewards or the Executive Director of the Board shall notify the owner, trainer, and any other person having care or custody or control of the horse. If the purse money has been distributed, the stewards or the Executive Director shall order it returned pending determination of the accuracy of the laboratory's report. The stewards or the Executive Director of the Board shall proceed to conduct an inquiry or the Board shall conduct an inquiry or hearing.

d) If the report of a laboratory is not contested or if the stewards or the Board determine that the laboratory report is accurate, all purse money won by the horse in the race in question shall be forfeited and redistributed among the remaining horses according to their order of finish, except as provided in Section 603.160. No such forfeiture and redistribution shall affect the distribution of pari-mutuel pools.

e) If no positive laboratory report has been issued to the stewards or the Board within 60 days after the date of a race, the owner of a horse shall become legally entitled to the money in the purse and it shall be conclusively presumed that the conditions precedent to such entitlement have been met. Provided, however, positive laboratory reports issued more than 60 days after the date of a race may be considered by the stewards or the Board as evidence of a rule violation under

Sections 603.50, 603.60, or 603.70.

f) If a positive laboratory report has been issued, whatever remains of that particular test sample shall be retained until all legal proceedings have been concluded.

(Source: Amended at 31 Ill. Reg. 12982, effective September 1, 2007)

Section 603.160 Penalties

a) Any person who administers or conspires to administer any foreign substance to any horse in violation of this Part shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed.~~have his/her license suspended or revoked and may also be subjected to a civil penalty.~~

b) Penalties for violations of this Part shall be based on the following criteria:

1) the nature of the foreign substance; e.g., cough medicine, steroid, narcotic, stimulant, depressant, etc.;

2) the accessibility of the drug; e.g., can be purchased over the counter, only with a prescription, only with a license for controlled substances, cannot be purchased in this country;

3) the age and experience of the violator;

4) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;

5) what action, if any, was taken by the violator to avoid such violation;

6) the purse of the race.

c) Any person who violates any provision of this Part for which no specific penalty is provided may be penalized by the stewards or the Board in accordance with the provisions for penalties contained elsewhere in this Chapter or in the Illinois Horse Racing Act of 1975. When imposing penalties, the stewards or the Board shall consider all relevant factors including, but not limited to those specified in this Part.

d) Penalties for Class 4 and 5 drug violations:

1) Class 4 as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 2343 Alexandria Drive, Suite 200, Lexington KY 40504; April 2005; this incorporation includes no later amendments or editions). Except as provided in Sections 603.60 and 603.70 of this Part, upon finding of a Class 4 substance, the trainer shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed according to the criteria set forth in subsection (d)(3).

2) Class 5 as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances. Except as provided in Sections 603.75 and 603.60(c) of this Part, upon finding of a Class 5 substance, the trainer shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed according to the criteria set forth in subsection (d)(3).

3) In determining a disqualification and purse redistribution under this subsection (d), the Stewards shall use the following criteria:

A) A recommendation by the Board veterinarian and/or Board chemist regarding the significance of the concentration of the drug or metabolite present and the estimated withdrawal time.

B) A recommendation by industry experts, including equine pharmacologists and equine physioligists, regarding the effect of the drug on the horse in the concentration found and/or estimated withdrawal times.

C) Repeat violations of these medication and prohibited substance rules by the same trainer or with respect to the same horse.

D) Prior violations of similar rules in other racing jurisdictions by the same trainer or with respect to the same horse.

E) The criteria set forth in subsection (b).

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

4) The provisions of this subsection (d) shall be applied retroactively when substantively applicable, including all actions pending before the Board, without regard to when the cause of action accrued; provided, however, that this subsection shall not operate to affect rights of individuals that have fully vested prior to April 23, 2007.

(Source: Amended at 31 Ill. Reg. 12982, effective September 1, 2007)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Property Tax Code

2) Code Citation: 86 Ill. Adm. Code 110

3) Section Number: 110.180 Adopted Action: Amendment

4) Statutory Authority: 20 ILCS 2505/2505-625

5) Effective Date of Amendment: August 21, 2007

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

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 7494; June 1, 2007

10) Has JCAR issued a Statement of Objection to this Amendment? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested.

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

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

15) Summary and Purpose of Amendment: This rulemaking corrects an error contained in subsection (d) of Section 110.180. The error involves changing the single word "after" to "before". The original word "after" was a typographical error that has not been previously amended.

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Robin Gill
Associate Counsel
Illinois Department of Revenue
Property Tax - Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/524-4886

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 110
PROPERTY TAX CODE

Section
110.101 Railroads
110.105 Non-carrier Real Estate of Railroads
110.110 Procedures for Assessment of Pollution Control Facilities and Low Sulphur Dioxide Emission Coal Fueled Devices
110.112 Procedures for Assessment of Section 515 Low-income Housing Projects
110.113 Fraternal Organization Assessment Freeze
110.115 Non-Homestead Exemption Proceedings
110.120 Oil Right Lessees and Producers
110.125 Reports to be Filed with the Department
110.130 Hearings and Records of Chief County Assessment Officers
110.135 Review of Assessments – Counties of 3,000,000 or More
110.140 Board of Review Procedures and Records – Counties of Less than 3,000,000
110.141 Farmland Factor Review Procedures (Repealed)
110.145 Practice and Procedure for Hearings on Property Tax Matters Before the Illinois Department of Revenue
110.150 Records Reproduction
110.155 Course and Examination Requirements for Board of Review Members
110.160 Multi-township Assessment Districts
110.162 Township and Multi-township Assessor Qualifications
110.165 Farmland Assessment Review Procedures
110.170 Assessors' Bonus
110.175 Equalization by Chief County Assessment Officers in Counties with Fewer Than 3,000,000 Inhabitants
110.180 Supervisor of Assessments Examination
110.190 Property Tax Extension Limitation
110.192 Property Tax Extension Limitation Law Notification and Determination Requirements After Referendum Under Section 18-213 or 18-214 of the Property Tax Code
110.ILLUSTRATION A State of Illinois Board of Review Course and Exam Requirements

AUTHORITY: Implementing the Property Tax Code [35 ILCS 200] and authorized by Section 2505-625 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-625].

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

SOURCE: Adopted June 1, 1940; amended at 5 Ill. Reg. 2999, effective March 11, 1981; amended at 5 Ill. Reg. 5888, effective May 26, 1981; amended at 6 Ill. Reg. 9707, effective July 27, 1982; amended at 6 Ill. Reg. 14564, effective November 5, 1982; codified at 7 Ill. Reg. 5886; amended at 8 Ill. Reg. 24285, effective December 5, 1984; amended at 9 Ill. Reg. 159, effective December 26, 1984; amended at 9 Ill. Reg. 12022, effective July 24, 1985; amended at 10 Ill. Reg. 11284, effective June 16, 1986; amended at 10 Ill. Reg. 15125, effective September 2, 1986; amended at 11 Ill. Reg. 19675, effective November 23, 1987; amended at 11 Ill. Reg. 20972, effective December 11, 1987; amended at 12 Ill. Reg. 14346, effective August 29, 1988; amended at 13 Ill. Reg. 6803, effective April 12, 1989; amended at 13 Ill. Reg. 7469, effective May 2, 1989; amended at 15 Ill. Reg. 3522, effective February 21, 1991; emergency rule added at 15 Ill. Reg. 14297, effective October 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 2624, effective February 4, 1992; emergency amendment at 17 Ill. Reg. 22584, effective January 1, 1994, for a maximum of 150 days; emergency expired May 30, 1994; amended at 18 Ill. Reg. 15618, effective October 11, 1994; emergency amendment at 19 Ill. Reg. 2476, effective February 17, 1995, for a maximum of 150 days; emergency expired July 16, 1995; emergency amendment at 19 Ill. Reg. 3555, effective March 1, 1995, for a maximum of 150 days; emergency expired July 28, 1995; emergency amendment at 20 Ill. Reg. 7540, effective May 21, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13611, effective October 3, 1996; amended at 20 Ill. Reg. 13993, effective October 3, 1996; emergency amendment at 20 Ill. Reg. 15613, effective November 22, 1996, for a maximum of 150 days; emergency expired on April 21, 1997; amended at 21 Ill. Reg. 6921, effective May 22, 1997; emergency amendment at 23 Ill. Reg. 9909, effective August 2, 1999, for a maximum of 150 days; emergency expired December 29, 1999; amended at 23 Ill. Reg. 14759, effective December 8, 1999; amended at 24 Ill. Reg. 2428, effective January 25, 2000; amended at 25 Ill. Reg. 191, effective December 26, 2000; amended at 25 Ill. Reg. 6396, effective May 1, 2001; amended at 26 Ill. Reg. 3727, effective February 26, 2002; emergency amendment at 27 Ill. Reg. 17094, effective October 24, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1395, effective January 9, 2004; amended at 28 Ill. Reg. 2257, effective January 22, 2004; emergency amendment at 28 Ill. Reg. 9690, effective June 28, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14662, effective October 19, 2004; amended at 28 Ill. Reg. 15599, effective November 17, 2004; amended at 31 Ill. Reg. 12994, effective August 21, 2007.

Section 110.180 Supervisor of Assessments Examination

a) Section 3-5 of the Property Tax Code [35 ILCS 200/3-5] requires, in addition to certain designation and experience criteria, that in order to be eligible for appointment or election to the office of Supervisor of Assessments a person must pass an examination conducted by the Department to determine his or her

competence to hold office. Eligibility must be met to be appointed, to file nomination papers, to be a candidate in a primary or general election, to be elected and to assume office.

b) A person may take the Supervisor of Assessments examination in any county where it is given, and the results shall be valid in any county throughout the State.

c) County Examination Requests in Counties that Appoint a Supervisor of Assessments: If the presiding officer of the County Board intends to appoint a person to be Supervisor of Assessments who has not passed the Supervisor of Assessments examination within the requisite time, an examination administered by the Department shall be requested by the presiding officer of the County Board at least 21 days before an appointment is to be made. Before requesting that a Supervisor of Assessments examination be administered in a county that appoints a Supervisor of Assessments, one of the three following criteria must be met:

1) The current Supervisor of Assessments has died or submitted a resignation with an effective date.

2) The County Board has voted to dismiss the current Supervisor of Assessments for misfeasance, malfeasance or nonfeasance. In this case, the examination will be given after the 21 day dismissal appeal period if no hearing is requested by the current Supervisor of Assessments. If a hearing is requested by the current Supervisor of Assessments pursuant to 35 ILCS 200/3-10, the examination will be scheduled only after the hearing and a final vote to dismiss the current Supervisor of Assessments.

3) The presiding officer of the County Board has notified the current Supervisor of Assessments within 90 to 120 days prior to the expiration of his term that the presiding officer does not intend to reappoint the Supervisor of Assessments.

d) County Examination Requests in Counties that Elect a Supervisor of Assessments: A person who wants to be a candidate for elected Supervisor of Assessments in a county and who has not passed the Department examination within two years before~~after~~ the first day for filing nomination papers shall request at least 30 days before the first day for filing nomination petitions that the County Clerk request an examination be given by the Department. If a person makes such a request, the County Clerk shall at least 21 days before the first day

for filing nomination petitions request that the Department administer an examination. The presiding officer of the County Board may request at least 21 days before the first day for filing nomination petitions that the Department give the examination, and if the presiding officer does so, the County Clerk need not duplicate the request.

e) Examination Score

1) A passing score of 70% or more correct will be valid for a two-year period commencing with the day the examination was taken.

2) If a person re-takes the examination, the most current examination score supersedes any previous examination score and the two-year period will begin with the most recent date that the person took and received a passing score on the examination.

3) In counties that appoint a Supervisor of Assessments, all persons certified to a county by the Department of Revenue as passing the examination shall be considered by that county as having met the examination requirements even though the two-year period may expire between the time the list in subsection (g) ~~below~~ is certified and the actual appointment is made. However, no list shall be valid for more than 120 days. If a person verifies having passed the test by presenting a grade request form pursuant to subsection (f)(1)(A) ~~below~~, the test must have been taken within two years before the date the appointment is made.

4) In counties that elect a Supervisor of Assessments, a person presenting a grade request form pursuant to subsection (f)(2)(A) ~~below~~ at the time his or her nomination papers are filed shall be considered as having met the examination requirements even though the two-year period may expire between the time the nomination papers are filed and the elected Supervisor of Assessments assumes office. In such counties a person whose name appears on the list provided by the Department pursuant to subsection (f)(2)(B) ~~below~~ shall be considered as having met the examination requirements even though the two-year period may expire between the first day nomination papers may be filed and the time an elected Supervisor of Assessments assumes office.

f) Verification of Passing the Examination

1) In counties that appoint a Supervisor of Assessments, verification that a person is certified as having passed the examination within the required time period shall be made by:

A) The person presenting to the presiding officer of the County Board or his designee a grade request form signed by two Department examiners indicating the person received a grade of at least 70% on the examination within two years before~~of~~ the date of the appointment, or

B) The person's name appearing on the list requested by the presiding officer of the County Board or his or her designee and provided by the Department pursuant to subsection (g) ~~below~~.

2) In counties that elect a Supervisor of Assessments, verification that a person is certified as having passed the examination within the required time period at the time the person files nomination papers shall be made by:

A) The person presenting to the County Clerk or his or her designee a grade request form signed by two Department examiners indicating the person received a grade of at least 70% on the examination within two years before the date the nomination papers were filed, or

B) The person's name appearing on the list requested by the County Clerk or his or her designee or the presiding officer of the County Board or his or her designee and provided by the Department pursuant to subsection (g) ~~below~~.

g) List of People Passing Examination

1) The Department shall maintain a list of people who have passed the Supervisor of Assessments examination within the last two years. Such list shall include each person's name, address, telephone number, and examination score. A person who does not wish to be on the certified list for the county in which the exam is being given may sign a waiver to keep his or her name off that county's list. A person who does not wish to be on

any certified list may so request on the examination application. A person who requests not to be on a list shall still receive a grade slip and, if a passing score was received, the grade slip signed by two Department examiners shall serve as proof of meeting the examination requirement for two years after~~from~~ the date of the examination. A person who has passed the examination but has requested that his or her name not be on any list may later request to be placed on a list for the remainder of the two years following~~from~~ the date of the examination.

2) The list of people with passing scores will be provided by the Department when there is a vacancy in the position of Supervisor of Assessments in a county that appoints a Supervisor of Assessments and the presiding officer of the County Board or his or her designee requests the~~such~~ list. Additional updated lists may be provided until such time as the vacancy is filled.

3) When a vacancy is filled by a permanent appointment to the position of Supervisor of Assessments, all lists previously provided to that county shall be considered void in that county, and the county shall obtain an updated list of people passing the examination to fill any future Supervisor of Assessments vacancies. The appointment of an acting Supervisor of Assessments for 60 days does not void lists certified to the county to fill the current vacancy.

4) The list of people with passing scores shall be provided by the Department before an election in a county that elects a Supervisor of Assessments when the County Clerk or his or her designee requests the~~such a~~ list. The list shall be requested at least 10 days before the first day that nomination petitions may be filed. The request shall include the date on which nomination papers may first be filed, and the list shall include those who have passed the test within two years prior to that date.

h) Location of Examinations

1) The Supervisor of Assessments examinations shall be given in a county when the county requires an~~such~~ examination. The examination may also be given on a regional basis, with locations and examination dates being determined by the Department.

2) If an examination is scheduled based upon a county's request, the Department shall cancel the scheduled examination if a Supervisor of Assessments appointment is made from the Department's list prior to the examination date. The County Clerk shall immediately notify the Department of the ~~such~~ appointment.

i) Publication Requirement

1) The Department of Revenue is responsible for meeting the statutory publication requirements for all regional examinations.

2) If the examination is conducted as a result of an individual county's request, then that county is responsible for meeting the statutory publication requirement.

3) Proof of publication must be submitted to the Department at or before the examination. If the publication requirement is not met by the county requesting an examination, the scores from that examination session shall be considered null and void. Proof of publication shall consist of a copy of the notice and a statement of the date of publication.

4) The published notice shall include the date, time, place and purpose of the examination, shall indicate that study materials are available and that the examination and facilities are accessible to handicapped individuals and shall indicate where application forms may be obtained. The notice shall be published in a local newspaper of general circulation in the county at least seven days before the examination is given.

j) Reappointment or Reelection

1) An incumbent Supervisor of Assessments is not required to take and pass the Supervisor of Assessments examination to be eligible for reappointment or reelection, to be appointed if the county changes from an elected to an appointed Supervisor of Assessments or to be elected if a county changes from an appointed to an elected Supervisor of Assessments.

2) A person currently holding the position of Supervisor of Assessments is not required to take and pass the Supervisor of Assessments examination

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to be appointed to and assume the office of Supervisor of Assessments in another county or to file nominating papers, to be a candidate in a primary or general election, to be elected and to assume the office of Supervisor of Assessments in another county.

(Source: Amended at 31 Ill. Reg. 12994, effective August 21, 2007)

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1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Section Number: 130.1701 — Adopted Action: Amendment

4) Statutory Authority: 20 ILCS 2505/2505-10

5) Effective Date of Amendment: August 21, 2007

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

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 7504; June 1, 2007

10) Has JCAR issued a Statement of Objection to this Amendment? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested.

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

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

Section Number:	Proposed Action:	Illinois Register Citation:
130.310	Amendment	June 8, 2007; 31 Ill. Reg. 8066

15) Summary and Purpose of Amendment: This rulemaking implements changes to the "bulk sales" provisions of the Retailers' Occupation Tax Act made by Public Act 94-776,

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effective May 19, 2006. A "bulk sale" is when a taxpayer, outside the usual course of his business, sells or transfers the major part of any one or more of:

A) the stock of goods which he or she is engaged in the business of selling,

B) the furniture or fixtures,

C) the machinery and equipment, or

D) the real property of any business that is subject to the provisions of the Retailers' Occupation Tax Act.

The bulk sales provisions of the Retailers' Occupation Tax Act impose certain notice requirements on taxpayers and the Illinois Department of Revenue. Those notice requirements reference either providing notice "within 10 days" or "within 60 days." The changes made by Public Act 94-776 and this rulemaking add the word "business" to each of the notice periods, so that it would read, for example "within 10 business days."

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

Terry D. Charlton
Senior Counsel, Sales and Excise Taxes
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section
130.101 Character and Rate of Tax
130.105 Responsibility of Trustees, Receivers, Executors or Administrators
130.110 Occasional Sales
130.111 Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115 Habitual Sales
130.120 Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section
130.201 The Test of a Sale at Retail
130.205 Sales for Transfer Incident to Service
130.210 Sales of Tangible Personal Property to Purchasers for Resale
130.215 Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220 Sales to Lessors of Tangible Personal Property
130.225 Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section
130.305 Farm Machinery and Equipment
130.310 Food, Drugs, Medicines and Medical Appliances
130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320 Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321 Fuel Used by Air Common Carriers in International Flights
130.325 Graphic Arts Machinery and Equipment Exemption
130.330 Manufacturing Machinery and Equipment
130.331 Manufacturer's Purchase Credit
130.332 Automatic Vending Machines
130.335 Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled

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Devices
130.340 Rolling Stock
130.341 Commercial Distribution Fee Sales Tax Exemption
130.345 Oil Field Exploration, Drilling and Production Equipment
130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351 Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

Section
130.401 Meaning of Gross Receipts
130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410 Cost of Doing Business Not Deductible
130.415 Transportation and Delivery Charges
130.420 Finance or Interest Charges – Penalties – Discounts
130.425 Traded-In Property
130.430 Deposit or Prepayment on Purchase Price
130.435 State and Local Taxes Other Than Retailers' Occupation Tax
130.440 Penalties
130.445 Federal Taxes
130.450 Installation, Alteration and Special Service Charges
130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section
130.501 Monthly Tax Returns – When Due – Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns
130.530 Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540 Returns on a Transaction by Transaction Basis
130.545 Registrants Must File a Return for Every Return Period

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130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552 Alcoholic Liquor Reporting
130.555 Vending Machine Information Returns
130.560 Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section
130.601 Preliminary Comments
130.605 Sales of Property Originating in Illinois
130.610 Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section
130.701 General Information on Obtaining a Certificate of Registration
130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710 Procedure When Security Must be Forfeited
130.715 Sub-Certificates of Registration
130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725 Display
130.730 Replacement of Certificate
130.735 Certificate Not Transferable
130.740 Certificate Required For Mobile Vending Units
130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

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130.801 General Requirements
130.805 What Records Constitute Minimum Requirement
130.810 Records Required to Support Deductions
130.815 Preservation and Retention of Records
130.820 Preservation of Books During Pendency of Assessment Proceedings
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

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SUBPART I: PENALTIES AND INTEREST

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130.901 Civil Penalties
130.905 Interest
130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section
130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
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SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section
130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

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130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
130.1410 Requirements for Certificates of Resale (Repealed)
130.1415 Resale Number – When Required and How Obtained
130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
130.1501 Claims for Credit – Limitations – Procedure
130.1505 Disposition of Credit Memoranda by Holders Thereof
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SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

Section
130.1601 When Returns are Required After a Business is Discontinued
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130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section
130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section
130.1801 When Powers of Attorney May be Given
130.1805 Filing of Power of Attorney With Department
130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section
130.1901 Addition Agents to Plating Baths
130.1905 Agricultural Producers

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130.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915	Auctioneers and Agents
130.1920	Barbers and Beauty Shop Operators
130.1925	Blacksmiths
130.1930	Chiropodists, Osteopaths and Chiropractors
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers
130.1945	Co-operative Associations
130.1950	Dentists
130.1951	Enterprise Zones
130.1952	Sales of Building Materials to a High Impact Business
130.1953	Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
130.1955	Farm Chemicals
130.1960	Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
130.1965	Florists and Nurserymen
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130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
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130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
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130.2013	Persons in the Business of Both Renting and Selling Tangible Personal Property –

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	Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
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130.2030	Public Amusement Places
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130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
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130.2055	Sales by Governmental Bodies
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130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
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130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps and Discount Coupons
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians

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130.2170 Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section
130.2500 Direct Payment Program
130.2505 Qualifying Transactions, Non-transferability of Permit
130.2510 Permit Holder's Payment of Tax
130.2515 Application for Permit
130.2520 Qualification Process and Requirements
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130.ILLUSTRATION A Examples of Tax Exemption Card
130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July l, 1933; amended at 2 Ill. Reg. 50, p. 7l, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. l3, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. l64, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June l7, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 57l, effective June l, 1980; amended at 5 Ill. Reg. 8l8, effective January 2, 198l; amended at 5 Ill. Reg. 3014, effective March 11, 198l; amended at 5 Ill. Reg. 12782, effective November 2, 198l; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July l, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987;

amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003,

for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007.

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section 130.1701 Bulk Sales: Notices of Sales of Business Assets

a) If any taxpayer, outside the usual course of his or her business, sells or transfers the major part of any one or more of:

1) the stock of goods which he is engaged in the business of selling, or

2) the furniture or fixtures, or

3) the machinery and equipment, or

4) the real property of any business that is subject to the provisions of the Act,

the purchaser or transferee of such assets shall, no later than 10 business days after the sale or transfer, file a notice of sale or transfer of business assets with the Chicago Office of the Department disclosing the name and address of the seller or transferor, the name and address of the purchaser or transferee, the date of the sale or transfer, a copy of the sales contract and financing agreements that shall include a description of the property sold, the amount of the purchase price or a statement of other consideration for the sale or transfer, the terms for payment of the purchase price and such other information as the Department may reasonably require. If the purchaser or transferee fails to file the above-described report of sale with the Department within the prescribed time, the purchaser or transferee shall be personally liable for the amount owed under this Section by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The seller or transferor shall pay the Department the amount of tax, penalty and interest (if any) due from him or

her under the Act up to the date of the payment of tax. The seller or transferor, or the purchaser or transferee, at least 10 business days before the date of the sale or transfer, may notify the Department of the intended sale or transfer and request the Department to audit the books and records of the seller or transferor or to do whatever else may be necessary to determine how much the seller or transferor owes to the Department under the Act up to the date of the sale or transfer. The Department shall take such steps as may be appropriate to comply with the request.

b) Any order issued by the Department pursuant to the Act and this Section to withhold from the purchase price shall be issued within 10 business days after the Department receives notification of a sale as provided in the Act and this Section. The purchaser or transferee shall withhold such portion of the purchase price as may be directed by the Department, but not to exceed a minimum amount varying by type of business plus twice the outstanding unpaid liabilities and twice the average liability of preceding filings times the number of unfiled returns to cover the amount of all tax, penalty and interest due and unpaid by the seller or transferor under the Act or, if the payment of money or property is not involved, shall withhold the performance of the condition that constitutes the consideration for the sale or transfer. Within 60 business days after the issuance of the initial order to withhold, the Department shall provide written notice to the purchaser or transferee of the actual amount of all taxes, penalties and interest then due and whether or not additional amounts may become due as a result of unfiled returns, pending assessments and audits not completed. The purchaser or transferee~~tranferee~~ shall continue to withhold the amount directed to be withheld by the initial order or to withhold the performance of the condition that~~which~~ constitutes the consideration for the sale or transfer until the purchaser or transferee receives from the Department a certificate showing that such tax, penalty and interest have been paid or a certificate from the Department showing that no tax, penalty or interest is due from the seller or transferor under the Act.

c) The purchaser or transferee is relieved of any duty to continue to withhold from the purchase price and of any liability for tax, penalty or interest due under the Act from the seller or transferor if the Department fails to notify the purchaser or transferee in the manner provided in this Section of the amount to be withheld within 10 business days after the sale or transfer has been reported to the Department or within 60 business days after issuance of the initial order to withhold as the case may be. The Department shall have the right to determine amounts claimed on an estimated basis to allow for non-filed periods, pending

assessments and audits not completed. However, the purchaser or transferee shall be personally liable only for the actual amount due when determined.

d) If the seller or transferor fails to pay the tax, penalty and interest (if any) due from him or her under the Act and the Department makes timely claim therefor against the purchaser or transferee as provided in subsection (b), then the purchaser or transferee shall pay the amount so withheld from the purchase price to the Department. If the purchaser or transferee fails to comply with the requirements of this Section under the Act, the purchaser or transferee shall be personally liable to the Department for the amount owed under the Act by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee.

e) Any person who shall acquire any property or rights thereto which, at the time of such acquisition, is subject to a valid lien in favor of the Department shall be personally liable to the Department for a sum equal to the amount of taxes secured by such lien but not to exceed the reasonable value of such property acquired by him.

f) Examples of situations where bulk sales reporting is required:

1) When a store selling clothing and shoes sells the clothing inventory of the business to another entity, bulk sales reporting is required.

2) When a company sells its business on a contract for deed basis, bulk sales reporting is required when the contract is entered into.

g) Examples of situations where bulk sales reporting is not required:

1) When a corporation is merged into another corporation pursuant to the Business Corporation Act, there are no bulk sales reporting requirements because the surviving corporation retains all of the liabilities of the merged corporation.

2) When one or more corporations are consolidated into a new corporation pursuant to the Illinois Business Corporation Act, there are no bulk sales reporting requirements because the new corporation retains all of the liabilities of the consolidated corporations.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

3) A repossession of equipment and inventory by a lender upon default by a borrower does not constitute a transfer within the meaning of the Bulk Sales provisions of the Act. For example, when a company is in default on a loan for business furniture and fixtures and the holder of the security interest forecloses and enters the business to repossess the furniture and fixtures, bulk sales reporting is not required.

4) A transfer of the majority of assets from one location to another location where a business has multiple locations and operates the locations under the same Certificate of Registration number is not a transfer that requires bulk sales reporting.

(Source: Amended at 31 Ill. Reg. 13004, effective August 21, 2007)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Public List of Delinquent Taxpayers

2) Code Citation: 86 Ill. Adm. Code 710

3) Section Number: 710.10 — Adopted Action: Amendment

4) Statutory Authority: 20 ILCS 2505/2505-425

5) Effective Date of Amendment: August 21, 2007

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: 31 Ill. Reg. 7519; June 1, 2007

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested.

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

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

15) Summary and Purpose of Amendment: Section 2505-425 of the Civil Administrative Code of the Department of Revenue (20 ILCS 2505/2505-425) provides statutory authority to the Department to publish an annual list of taxpayers who are delinquent in the payment of State taxes and directs the Department to prescribe reasonable rules for the administration of this section.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section 710.10 of Title 86 of the Illinois Administrative Code defines the term "Annual List" as an initial list of delinquent taxpayers, along with accumulated updates, disclosed by the Department during the course of a "one-year period" and establishes the one-year period as running from September 15 of one year to September 14 of the next.

The Department proposes to amend this administrative rule by removing the references to the specific annual beginning and ending dates and, instead, by adding language to establish the one-year period as 365 days, beginning on the date of initial publication. The proposed revision would afford the Department more flexibility in determining the initial date in a given year for publication of the list of delinquent taxpayers.

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

George Logan
Deputy General Counsel – Administrative Law
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 710
PUBLIC LIST OF DELINQUENT TAXPAYERS

Section

710.10 Definitions
710.20 Development of the Notice List of Delinquent Taxpayers
710.30 Notification of Delinquent Taxpayers
710.40 Grace Period
710.50 Publication of the Annual List of Delinquent Taxpayers
710.60 Periodic Updates

AUTHORITY: Implementing and authorized by Section 2505-425 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-425].

SOURCE: Emergency rules adopted at 23 Ill. Reg. 3521, effective March 4, 1999, for a maximum of 150 days; emergency expired August 1, 1999; adopted at 23 Ill. Reg. 12460, effective September 22, 1999; amended at 25 Ill. Reg. 16289, effective December 10, 2001; amended at 31 Ill. Reg. 13019, effective August 21, 2007.

Section 710.10 Definitions

"Act" means Public Act 90-753, 20 ILCS 2505/39b54, "AN ACT to amend the Civil Administrative Code by adding Section 39b54."

"Annual List" refers to the initial list of delinquent taxpayers, along with the accumulated updates thereto, as disclosed by the Department during the course of a one-year period. For purposes of the Annual List, the one-year period shall commence upon publication of the initial list~~September 15~~ and close 365 days thereafter~~September 14~~.

"Delinquent" refers to any final tax liability that has come due and remains unpaid. For purposes of Section 710.20 of this Part, the taxpayer shall not be deemed a delinquent taxpayer subject to disclosure if any of the following circumstances apply:

there is a written agreement for payment between the taxpayer and the

Department, and the taxpayer is current in all payments.

the taxpayer is contesting the liability by way of an administrative hearing, administrative review, or judicial review. This exception includes taxpayers that currently have a petition pending before the Department's Board of Appeals.

the Department is currently in the process of reviewing the liability.

the Department is currently in the process of adjusting the liability.

the taxpayer is a debtor in a bankruptcy proceeding and the Bankruptcy Court has in place a stay of collection activity on the liability.

the taxpayer is deceased.

"Delinquent Taxpayer" means any taxpayer, whether an individual, trust, partnership, corporation, or any other taxable entity, that is delinquent in the payment of a final tax liability of a tax collected by the Department, as set forth in Section 710.20, and thereby subject to disclosure under the Act.

"Department" means the Department of Revenue of the State of Illinois.

"Disclosable Information" means the name and address of the delinquent taxpayer, the type or types of delinquent tax and the date on which each tax was assessed or became final, the amount of each delinquent tax liability, and, in the case of a corporate taxpayer, the name of the current president of record of the corporation.

"Disclose" means to publish or release a taxpayer's disclosable information not previously disclosed under the Act within the same one-year period. The repeated publication of identical disclosable information for a particular taxpayer in a single one-year period does not constitute multiple disclosures.

"Disclosure" means the publication or release of a taxpayer's disclosable information not previously disclosed under the Act within the same one-year period.

"Final Tax Liability" means a liability that has been assessed, is deemed assessed,

or is otherwise final for the purpose of enforced collection activity. For the purposes of the Annual List, a liability does not qualify as a Final Tax Liability where the Department has written off the liability after deeming it uncollectable, unless the liability is later reinstated due to a determination of collection potential.

"Notice List" means the preliminary list of taxpayers deemed delinquent and subject to disclosure under the requirements set forth in Section 710.20 of this Part.

(Source: Amended at 31 Ill. Reg. 13019, effective August 21, 2007)

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED RULES

1) Heading of the Part: Americans With Disabilities Act Grievance Procedure

2) Code Citation: 4 Ill. Adm. Code 1800

3)

Section Numbers:	Adopted Action:
1800.10	New Section
1800.20	New Section
1800.30	New Section
1800.40	New Section
1800.50	New Section
1800.60	New Section
1800.70	New Section

4) Statutory Authority: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and authorized by Section 2 of the Department of Public Health Act [20 ILCS 2305/2]

5) Effective Date of Rulemaking: August 24, 2007

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: 31 Ill. Reg. 6363; April 27, 2007

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

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

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

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED RULES

15) Summary and Purpose of Rulemaking: These adopted rules implement grievance procedures required under the federal Americans with Disabilities Act.

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

Steven S. Sandvoss
General Counsel
State Board of Elections
1020 S. Spring St.
Springfield IL 62708

217/557-9939

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

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED RULES

TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER LXI: STATE BOARD OF ELECTIONS

PART 1800
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section
1800.10 Purposes
1800.20 Definitions
1800.30 Procedure
1800.40 Review at the Designated Coordinator Level
1800.50 Review at the Final Level
1800.60 Accessibility Policy
1800.70 Case-by-Case Resolution

AUTHORITY: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and authorized by Section 1A-8 of the Election Code [10 ILCS 5/1A-8].

SOURCE: Adopted at 31 Ill. Reg. 13024, effective August 24, 2007.

Section 1800.10 Purpose

a) The Americans With Disabilities Act grievance procedure is established pursuant to the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) (ADA) and specifically 28 CFR 35.107 requiring that a procedure be established to resolve grievances asserted by qualified individuals with disabilities. Any individual desiring to review the ADA or its regulations to understand the rights, privileges and remedies afforded by it may contact the Designated Coordinator.

b) In general, the ADA requires that each program, service and activity offered by the State Board of Elections (Office), when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.

c) It is the intent of the Office to foster open communication with all individuals requesting ready access to programs, services and activities. The Office encourages directors of programs, services and activities to respond to requests for modifications before they become grievances.

Section 1800.20 Definitions

"ADA" means the Americans With Disabilities Act (42 USC 12101 et seq.).

"Complainant" is an individual with a disability who files a Grievance Form provided by the Office in accordance with Section 1800.30.

"Designated Coordinator" is the person appointed by the State Board of Elections to coordinate the Office's efforts to comply with and carry out its responsibilities under Title II of the ADA (State and Local Government Services and Public Transportation), including the investigation of grievances filed by complainants. The Designated Coordinator may be contacted at the Office of the State Board of Elections, 1020 South Spring Street, Springfield, Illinois 62704 or by telephone at 217/782-4141 (voice), 217/782-1518 (TDD).

"Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of that individual, a record of such an impairment, or being regarded as having such an impairment.

"Executive Director" means the Executive Director of the State Board of Elections.

"Grievance" is any complaint under the ADA by an individual with a disability who meets the essential eligibility requirements for participation in, or receipt of, the benefits of a program, activity or service offered by the Office, and who believes she or he has been excluded from participation in or denied the benefits of any program, service or activity of the Office or has been subject to discrimination by the Office on the basis of her or his disability.

"Office" means the Office of the State Board of Elections.

Section 1800.30 Procedure

a) Grievances must be submitted through the channels defined in this Section, in the form and manner described, and within the specified time limits. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this procedure are in business days, unless otherwise stated, and may be extended by mutual agreement in writing by the complainant and the reviewer at the Designated Coordinator and Final Levels.

b) A complainant's failure to submit a grievance or to submit or appeal it to the next level of procedure within the specified time limits shall mean that the complainant has withdrawn the grievance or has accepted the last response given by the Office.

c) Upon being informed by an individual that the individual desires to file a formal grievance, the Office shall provide the individual with a copy of this Part and the Grievance Form.

d) In order to be deemed filed and to receive proper consideration by the Designated Coordinator, the Grievance Form must be completed in full except as otherwise indicated. The Designated Coordinator will notify the complainant within 10 days after the receipt of the form if the filing is not complete. The Office will assist with completion of the Grievance Form upon request.

Section 1800.40 Review at the Designated Coordinator Level

a) If an individual desires to file a formal written grievance, the individual shall promptly, but no later than 180 calendar days after the alleged discrimination, submit the grievance to the Designated Coordinator in writing on the prescribed Grievance Form. The Grievance Form must be completed in full in order to receive proper consideration by the Designated Coordinator.

b) Upon request, assistance shall be provided by the Office to complete the Grievance Form.

c) The Designated Coordinator, or her or his representative, shall investigate the grievance and shall make reasonable efforts to resolve it. The Designated Coordinator shall provide a written response to the complainant and the Executive Director within 10 days after receipt of the Grievance Form.

Section 1800.50 Review at the Final Level

a) If the grievance has not been resolved at the Designated Coordinator Level to the satisfaction of the complainant, the complainant may submit a copy of the Grievance Form and the Designated Coordinator's response to the Executive Director for final review within 10 days after receipt of the Designated Coordinator's written response. The complainant shall submit these documents to the Executive Director, together with a short written statement explaining the reasons for dissatisfaction with the Designated Coordinator's written response.

The Executive Director will extend the period for submitting the review request and supporting documents for up to 10 additional days upon complainant's request.

b) The Executive Director shall appoint a 3 member Review Panel to review the grievance at the Final Level. One member so appointed shall be designated chairperson. The Designated Coordinator or any representative of the Designated Coordinator, who conducted the investigation at the Designated Coordinator Level, may not be a member of the Review Panel.

c) The complainant shall be afforded an opportunity to appear before the Review Panel. The Review Panel shall review the Designated Coordinator's written response and may conduct interviews and seek advice as it deems appropriate.

d) The Review Panel shall approve, disapprove or modify the recommendation of the Designated Coordinator, shall render a decision in writing within 30 days, shall state the basis for the decision, and shall cause a copy of the decision to be served on the parties. The Review Panel's decision shall be final. If the Review Panel disapproves or modifies the Designated Coordinator's recommendations, the Review Panel shall include written reasons for disapproval or modification.

e) The Grievance Form, the Designated Coordinator's response, the statement of reasons for dissatisfaction, and the decision of the Review Panel shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

Section 1800.60 Accessibility Policy

The Office shall ensure that all stages of the procedure are readily accessible to and usable by individuals with disabilities.

Section 1800.70 Case-by-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the Office. Accordingly, termination of a grievance at any level, whether

through the granting of relief or otherwise, shall not constitute a precedent on which any other complainants should rely.

AUDITOR GENERAL

NOTICE OF EMERGENCY RULES

1) Heading of the Part: Inspector General Complaint Policies and Procedures

2) Code Citation: 2 Ill. Adm. Code 605

3)

Section Numbers:	Emergency Action:
605.5	New Section
605.10	New Section
605.15	New Section
605.20	New Section
605.25	New Section
605.30	New Section
605.40	New Section
605.50	New Section
605.60	New Section
605.70	New Section

4) Statutory Authority: Section 30-5(b) of the State Officials and Employees Ethics Act [5 ILCS 430/30-5(b)]

5) Effective Date of Rule: August 27, 2007

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rule will expire at the end of the 150 day period, or upon adoption of permenent rules, whichever comes first.

7) Date Filed with the Index Department: August 27, 2007

8) A copy of the emergency rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: The State Officials and Employees Ethics Act specifically authorized the Office of the Auditor General to adopt emergency rules providing for the operation of the Office of the Auditor General Inspector General. The necessary policies and procedures were not timely adopted through the administrative process due to an inadvertent omission by the agency.

10) A Complete Description of the Subjects and Issues Involved: This Part governs the investigations of the Office of the Auditor General Inspector General and sets forth

procedures for opening, closing and conducting investigations, confidentiality, and cooperation by employees.

11) Are there any proposed rulemakings to this Part pending? No

12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under the State Mandates Act.

13) Information and questions regarding this emergency rulemaking shall be directed to:

Becky Patton, Legal Counsel
Office of the Auditor General
740 E. Ash St.
Springfield, IL 62703

217/782-6046
888/261-2887 (TTY)

The full Text of the Emergency Rules begins on the next page:

AUDITOR GENERAL

NOTICE OF EMERGENCY RULES

TITLE 2: GOVERNMENT ORGANIZATION
SUBTITLE C: CONSTITUTIONAL OFFICERS
CHAPTER V: AUDITOR GENERAL

PART 605
INSPECTOR GENERAL COMPLAINT POLICIES AND PROCEDURES

Section:
605.5 Definitions
EMERGENCY
605.10 Jurisdiction
EMERGENCY
605.15 Complaint Form
EMERGENCY
605.20 Referral to the Appropriate Entity
EMERGENCY
605.25 Referral to Law Enforcement Agencies
EMERGENCY
605.30 Opening an Investigative File
EMERGENCY
605.40 Investigations
EMERGENCY
605.50 Summary Report
EMERGENCY
605.60 Cooperation in Investigations
EMERGENCY
605.70 Confidentiality
EMERGENCY

AUTHORITY: Implementing and authorized by Section 30-5 of the State Officials and Employees Ethics Act [5 ILCS 430/30-5].

SOURCE: Emergency rule adopted at 31 Ill. Reg. 13031, effective August 27, 2007, for a maximum of 150 days.

Section 605.5 Definitions
EMERGENCY

"Act" means the State Officials and Employees Ethics Act [5 ILCS 430].

"Employee" means any person employed full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, or any appointee, other than the Inspector General appointed by the Auditor General pursuant to Section 30-5 of the Act.

"Ethics Officer" means the person appointed by the Auditor General pursuant to Section 30-10 of the Act who shall act as liaison to the Inspector General.

"Inspector General" means the person appointed by the Auditor General pursuant to Article 30 of the Act.

"Ultimate jurisdictional authority" means, for employees of the Auditor General, the Auditor General.

Section 605.10 Jurisdiction
EMERGENCY

a) The jurisdiction of the Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of the Act or violations of other related laws or rules involving employees of the Office of the Auditor General.

b) The Inspector General will decline to investigate the following types of complaints:

1) anonymous complaints;

2) complaints relating to conduct the most recent act of which occurred more than a year before the complaint is filed, except when there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred;

3) complaints involving vendors of the Office of the Auditor General, unless the complaint also specifically alleges improper conduct by an employee of the Office of the Auditor General relating to that vendor;

4) anything that has been fully adjudicated (administratively or in a court) or is pending before an agency or pending in civil or criminal court; and

5) disagreements of legal interpretations relating to or arising out of the audit and examination process or decisions by the Office of the Auditor General relating to audits or examinations.

c) The Inspector General may also decline to investigate the following types of complaints:

1) complaints in which a person is dissatisfied with the Office of the Auditor General's administrative or personnel policies or procedures, such as the identity of one's supervisor or a work assignment; and

2) complaints that are currently pending before another federal, state or local entity.

Section 605.15 Complaint Form
EMERGENCY

The Inspector General shall prescribe and make available a complaint form.

Section 605.20 Referral to the Appropriate Entity
EMERGENCY

If the Inspector General receives a complaint form or other information that alleges misconduct of an officer or employee outside his or her jurisdiction, he or she may forward the complaint form or information to the appropriate Inspector General, appropriate ethics commission or other appropriate body and shall keep a record of this referral and its recipients.

Section 605.25 Referral to Law Enforcement Agencies
EMERGENCY

When it appears that a case may warrant criminal investigation, the Inspector General may immediately refer the allegation to an appropriate federal, state or local law enforcement agency or state Attorney General.

Section 605.30 Opening an Investigative File

EMERGENCY

a) An investigative file shall be opened upon receipt of a complaint form meeting the requirements of this Part. Multiple complaint forms that relate to the same alleged acts of misconduct may be consolidated for purposes of investigation. In the absence of a completed complaint form, the Inspector General may create an investigation file and assign the file a unique tracking number if, upon information received and not upon his or her own prerogative, the Inspector General reasonably believes that misconduct may have occurred within the Inspector General's jurisdiction.

b) The investigation file shall contain the complaint form or, if none, so much of the information that would normally appear on the complaint form as is known to the Inspector General at the inception of the matter.

Section 605.40 Investigations
EMERGENCY

a) Investigations shall commence upon the opening of an investigation file.

b) The Inspector General shall have the discretion to determine whether reasonable cause exists to warrant the opening of an investigative file and to determine the appropriate means of investigation as permitted by law. All investigations will be conducted in a professional and thorough manner. Investigations will be properly documented and will be submitted in written reports of findings. Proper documentation of an investigation shall include, at a minimum, a description of the alleged misconduct or offense; the events and circumstances surrounding the allegation, including the results of interviews, review of documents and records, and other material information revealed during the investigation; and a recommendation concerning the merits of the allegation.

c) The Inspector General will utilize methods for investigative interviews consistent with current practices and techniques and will observe and comply with all laws and agreements related to the questioning of employees or other individuals.

d) When the Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. At the request of the subject of the investigation, the Inspector General shall provide a written statement to the subject of the investigation of the Inspector General's

decision to close the investigation. Closure by the Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant.

Section 605.50 Summary Report
EMERGENCY

a) If the Inspector General, upon conclusion of an investigation, determines that reasonable cause exists to believe that a violation has occurred, then the Inspector General shall issue a summary report of the investigation. The report shall be delivered to the Auditor General, as ultimate jurisdictional authority.

b) The summary report of the investigation shall include the following:

1) A description of any allegations or other information received by the Inspector General pertinent to the investigation.

2) A description of any alleged misconduct discovered in the course of the investigation.

3) Recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.

4) Other information the Inspector General deems relevant to the investigation or resulting recommendations.

Section 605.60 Cooperation in Investigations
EMERGENCY

a) It is the duty of every employee under the jurisdiction of the Inspector General to cooperate with the Inspector General in any investigation undertaken pursuant to the Act. Failure to cooperate with an investigation of the Inspector General is grounds for disciplinary action, including dismissal. Nothing in this provision limits or alters a person's existing rights or protections under State or federal law.

b) Any employee who is the subject of an investigation who, according to present evidence or allegations, faces potential discipline shall be notified by the Inspector General of whether the interview is criminal or administrative in nature and of the right to the presence of a representative or co-worker uninvolved in the

investigation or the representation of a private attorney during any interview. The interview subject shall sign a written acknowledgement of his or her understanding of these rights on a form prescribed by the Inspector General. If, at any point, an interview subject indicates that he or she wants the presence of a person authorized by this subsection (b), the interview shall be suspended and a new date and time set. Evidence obtained directly or indirectly in violation of this subsection (b) shall not be admissible in any proceeding.

c) Interviews shall not be audiotaped or otherwise recorded without the written consent of the employee. The written consent shall indicate that the interview subject is not required to consent to the audio recording and his or her refusal to consent to the audio recording does not constitute failure to cooperate with the investigation. The written consent and audiotapes shall be preserved, unedited, in the investigation file.

Section 605.70 Confidentiality
EMERGENCY

a) The identity of any individual providing information or reporting any possible or alleged misconduct to the Inspector General shall be kept confidential and may be disclosed only on an as-needed basis or with the consent of the individual or as otherwise required by law. The confidentiality granted by this subsection (a) does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation.

b) Any allegations and related documents submitted to the Inspector General and the Inspector General's files and reports are exempt from the provisions of the Freedom of Information Act [5 ILCS 140] and are confidential, except as necessary for referral to and possible action by:

1) law enforcement agencies, prosecutorial authorities, other Inspectors General or other parties as permitted by this Part; and

2) the Auditor General.

c) If an investigation results in a finding that an employee engaged in misconduct, the results of the investigation and the names of the witnesses may become public in any ensuing administrative or judicial proceeding.

d) Requests from the ethics officer for guidance on matters involving the interpretation or application of the Act or rules promulgated under the Act are exempt from the provisions of the Freedom of Information Act. Guidance provided to an ethics officer or State employee at the request of an ethics officer on matters involving the interpretation or application of the Act or rules promulgated under the Act is exempt from the provisions of the Freedom of Information Act.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
SEPTEMBER 11, 2007

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@ilga.gov
Phone: 217/785-2254

RULEMAKINGS CURRENTLY BEFORE JCAR

PROPOSED RULEMAKINGS

Capital Development Board

1. Prequalification of Design-Build Entities (44 Ill. Adm. Code 995)
   -First Notice Published: 31 Ill. Reg. 6724 – 5/11/07
   -Expiration of Second Notice: 9/21/07

2. Selection of Design-Build Entities (44 Ill. Adm. Code 1030)
   -First Notice Published: 30 Ill. Reg. 6730 – 5/11/07
   -Expiration of Second Notice: 9/21/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

3. Illinois Energy Conservation Code (71 Ill. Adm. Code 600)
-First Notice Published: 31 Ill. Reg. 6744 – 5/11/07
-Expiration of Second Notice: 9/21/07

Education

4. Mentoring Program for New Principals (23 Ill. Adm. Code 35)
-First Notice Published: 31 Ill. Reg. 6882 – 5/11/07
-Expiration of Second Notice:10/6/07

5. Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180)
-First Notice Published: 31 Ill. Reg. 5455 – 4/6/07
-Expiration of Second Notice: 10/3/07

6. Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401)
-First Notice Published: 31 Ill. Reg. 6885 – 5/11/07
-Expiration of Second Notice: 10/3/07

Financial and Professional Regulation

7. General Provisions (50 Ill. Adm. Code 2500)
-First Notice Published: 31 Ill. Reg. 7379 – 5/25/07
-Expiration of Second Notice: 9/22/07

8. Medical Practice Act of 1987 (68 Ill. Adm. Code 1285)
-First Notice Published: 31 Ill. Reg. 9333 – 7/6/07
-Expiration of Second Notice: 10/7/07

Heath Facilities Planning Board

9. Narrative and Planning Policies (77 Ill. Adm. Code 1100)
-First Notice Published: 31 Ill. Reg. 2548 – 2/9/07
-Expiration of Second Notice: 9/14/07

10. Health Facilities Planning Procedural Rules (77 Ill. Adm. Code 1130)
-First Notice Published: 31 Ill. Reg. 3679 – 3/9/07
-Expiration of Second Notice: 10/10/07

Human Services

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

11. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)
-First Notice Published: 31 Ill. Reg. 8452 – 6/15/07
-Expiration of Second Notice: 10/7/07

Investment

12. Rules and Regulations of the Board (74 Ill. Adm. Code 800)
-First Notice Published: 31 Ill. Reg. 6667 – 5/4/07
-Expiration of Second Notice: 9/29/07

Natural Resources

13. Sport Fishing Regulations for the Waters of Illinois (17 Ill. Adm. Code 810)
-First Notice Published: 31 Ill. Reg. 7679 – 6/8/07
-Expiration of Second Notice: 9/13/07

14. Dog Training on Department-Owned or –Managed Sites (17 Ill. Adm. Code 950)
-First Notice Published: 31 Ill. Reg. 8604 – 6/22/07
-Expiration of Second Notice: 9/23/07

15. Designation of Restricted Waters in the State of Illinois (17 Ill. Adm. Code 2030)
-First Notice Published: 31 Ill. Reg. 7681 – 6/8/07
-Expiration of Second Notice: 9/13/07

Pollution Control Board

16. Definitions and General Provisions (35 Ill. Adm. Code 211)
-First Notice Published: 31 Ill. Reg. 6578 – 5/4/07
-Expiration of Second Notice: 9/22/07

17. Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)
-First Notice Published: 31 Ill. Reg. 6597 – 5/4/07
-Expiration of Second Notice: 9/22/07

Public Health

18. Hospital Licensing Requirements (77 Ill. Adm. Code 250)
-First Notice Published: 30 Ill. Reg. 16191 – 10/13/06
-Expiration of Second Notice: 10/3/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

Revenue

19. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
-First Notice Published: 31 Ill. Reg. 8066 – 6/8/07
-Expiration of Second Notice: 9/21/07

Secretary of State

20. Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)
-First Notice Published: 31 Ill. Reg. 8895 – 6/29/07
-Expiration of Second Notice: 10/4/07

State Fire Marshal

21. School Plan Reviews and Inspections (41 Ill. Adm. Code 111)
-First Notice Published: 31 Ill. Reg. 8611 – 6/22/07
-Expiration of Second Notice: 9/30/07

EMERGENCY RULEMAKINGS

Board of Examiners

22. Certificate of Certified Public Accountant (23 Ill. Adm. Code 1400)
-Notice Published: 27 Ill. Reg. 11373 – 8/3/07

Central Management Services

23. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 31 Ill. Reg. 12608 – 8/31/07

Financial and Professional Regulation

24. Supplemental Reports for Accident and Health Insurers (50 Ill. Adm. Code 937)
-Notice Published: 31 Ill. Reg. 10699 – 7/27/07

Natural Resources

25. Youth Hunting Seasons (17 Ill. Adm. Code 685)
-Notice Published: 31 Ill. Reg. 12096 – 8/10/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
SEPTEMBER AGENDA

PEREMPTORY RULEMAKINGS

Agriculture

26. Meat and Poultry Inspection Act (8 Ill. Adm. Code 125)
-Notice Published: 31 Ill. Reg. 12624 – 8/31/07

Central Management Services

27. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 31 Ill. Reg. 12335 – 8/24/07

EXEMPT RULEMAKING

Pollution Control Board

28. Primary Drinking Water Standards (35 Ill. Adm. Code 611)
-Proposed Date: 6/8/07
-Adopted Date: 8/10/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 21, 2007 through August 27, 2007 and have been scheduled for review by the Committee at its September 11, 2007 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
10/3/07	Department of Public Health, Hospital Licensing Requirements (77 Ill. Adm. Code 250)	10/13/06 30 Ill. Reg. 16191	9/11/07
10/3/07	State Board of Education, Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180)	4/6/07 31 Ill. Reg. 5455	9/11/07
10/3/07	State Board of Education, Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401)	5/11/07 31 Ill. Reg. 6885	9/11/07
10/4/07	Secretary of State, Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)	6/29/07 31 Ill. Reg. 8895	9/11/07
10/6/07	State Board of Education, Mentoring Program for New Principals (23 Ill. Adm. Code 35)	5/11/07 31 Ill. Reg. 6882	9/11/07
10/7/07	Department of Human Services, Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)	6/15/07 31 Ill. Reg. 8452	9/11/07
10/7/07	Department of Financial and Professional Regulation-Division of Professional Regulation, Medical Practice Act of 1987 (68 Ill. Adm.	7/6/07 31 Ill. Reg. 9333	9/11/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	Code 1285)		
10/10/07	Health Facilities Planning Board, Health Facilities Planning Procedural Rules (77 Ill. Adm. Code 1130)	3/9/07 31 Ill. Reg. 3679	9/11/07

2007-268
GUBERNATORIAL PROCLAMATION

As a result of continual heavy rains beginning on August 20, 2007 in northeastern Illinois and southern Wisconsin, river levels on the Des Plaines and Fox rivers are expected to be near or surpass record levels in several cities along these rivers in Cook, Lake, McHenry and Kane Counties. The floodwaters have already displaced many people from their homes and forced businesses and schools to close.

In the interest of aiding citizens of Illinois and the local governments responsible for ensuring public health and safety, I hereby declare that a disaster exists in the State of Illinois and specifically declare Cook, Lake, McHenry and Kane counties State Disaster Areas pursuant to the provisions of Section 3305/7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7.

This gubernatorial proclamation of disaster will assist the Illinois Emergency Management Agency in coordinating State resources to support local governments in disaster response and recovery operations. This proclamation will also make possible the request for federal assistance to supplement the State's efforts if it is deemed necessary to protect the public health and safety and to assist in recovery.

Dated August 8, 2007
Filed August 24, 2007

2007-268 (Revised)
GUBERNATORIAL PROCLAMATION

As a result of continual heavy rains beginning on August 20, 2007 in northeastern Illinois and southern Wisconsin, river levels on the Des Plaines and Fox rivers are expected to be near or surpass record levels in several cities along these rivers in Cook, Lake, McHenry and Kane Counties. The floodwaters have already displaced many people from their homes and forced businesses and schools to close.

In the interest of aiding citizens of Illinois and the local governments responsible for ensuring public health and safety, I hereby declare that a disaster exists in the State of Illinois and specifically declare Cook, Lake, McHenry and Kane counties State Disaster Areas pursuant to the provisions of Section 3305/7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7.

This gubernatorial proclamation of disaster will assist the Illinois Emergency Management Agency in coordinating State resources to support local governments in disaster

response and recovery operations. This proclamation will also make possible the request for federal assistance to supplement the State's efforts if it is deemed necessary to protect the public health and safety and to assist in recovery.

Dated August 24, 2007
Filed August 24, 2007

2007-269
GUBERNATORIAL PROCLAMATION

Severe storms produced tornadoes and torrential rain on August 23, 2007, in DuPage County. The Village of Villa Park and the City of Wood Dale experienced tornado touch downs damaging homes and businesses. The torrential rain caused flooding and flash flooding throughout the City of West Chicago. The affected local governments quickly responded and continue to provide emergency measures including the removal of debris from downed trees and damaged buildings.

In the interest of aiding citizens of Illinois and the local governments responsible for ensuring public health and safety, I hereby declare that a disaster exists in the State of Illinois and specifically declare DuPage County a State Disaster Area pursuant the provisions of Section 3305/7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7.

This gubernatorial proclamation of disaster will assist the Illinois Emergency Management Agency in coordinating State resources to support local governments in disaster response and recovery operations. This proclamation will also make possible the request for federal assistance to supplement the State's efforts if it is deemed necessary to protect the public health and safety and to assist in recovery.

Dated August 24, 2007
Filed August 27, 2007

2007-270
GUBERNATORIAL PROCLAMATION

As a result of continual heavy rains beginning on August 20, 2007 in northeastern Illinois and southern Wisconsin, and severe storms on August 23, 2007, river levels on the Kishwaukee River have produced near record flooding in DeKalb County, Illinois. The floodwaters have already displaced many people from their homes and forced businesses and schools to close.

In the interest of aiding citizens of Illinois and the local governments responsible for ensuring public health and safety, I hereby declare that a disaster exists in the State of Illinois

and specifically declare DeKalb County a State Disaster Area pursuant to the provisions of Section 3305/7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7.

This gubernatorial proclamation of disaster will assist the Illinois Emergency Management Agency in coordinating State resources to support local governments in disaster response and recovery operations. This proclamation will also make possible the request for federal assistance to supplement the State's efforts if it is deemed necessary to protect the public health and safety and to assist in recovery.

Dated August 26, 2007
Filed August 27, 2007

ILLINOIS ADMINISTRATIVE CODE
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