2008 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.].

2008 REGISTER SCHEDULE VOLUME #32

Issue #	Rules Due Date	Date of Issue
1	December 21, 2007*	January 4, 2008
2	December 31, 2007	January 11, 2008
3	January 7, 2008	January 18, 2008
4	January 14, 2008	January 25, 2008
5	January 22, 2008	February 1, 2008
6	January 28, 2008	February 8, 2008
7	February 4, 2008	February 15, 2008
8	February 11, 2008	February 22, 2008
9	February 19, 2008	February 29, 2008
10	February 25, 2008	March 7, 2008
11	March 3, 2008	March 14, 2008
12	March 10, 2008	March 21, 2008
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14	March 24, 2008	April 4, 2008
15	March 31, 2008	April 11, 2008
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47	November 10, 2008	November 21, 2008
48	November 17, 2008	December 1, 2008
49	November 24, 2008	December 5, 2008
50	December 1, 2008	December 12, 2008
51	December 8, 2008	December 19, 2008
52	December 15, 2008	December 26, 2008
53	December 22, 2008	January 2, 2009

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Riverboat Gambling

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

3)

Section Numbers:	Proposed Action:
3000.100	Amendment
3000.635	Amendment

4) Statutory Authority: Authorized by the Riverboat Gambling Act [230 ILCS 10], specifically Sections 5 (c) (2), (3), and (7) of this Act [230 ILCS 10/5 (c) (2), (3), and (7)]

5) A Complete Description of the Subjects and Issues Involved: The purpose of the proposed rulemaking is to amend Section 3000.100, Definitions, and Section 3000.635, Issuance and Use of Tokens and Vouchers for Gaming, to provide for a one-year (instead of three-year) expiration period during which vouchers may be redeemed for cash at the cashier cage of the holder of an owner's license.

Currently in the calculation of Adjusted Gross Receipts (AGR), Owner Licensees reduce AGR by the dollar amount of vouchers issued for that day and increase AGR by all vouchers redeemed on that same day. Owner Licensees do not pay tax on unredeemed vouchers until they are "cashed-in" or until they expire, which is currently 3 years from the date of issuance. Reducing the "expiration date" from 3 years to 1 year will reintroduce unredeemed vouchers back into the revenue stream and result in the State receiving tax revenue from those vouchers 24 months sooner than currently constituted under this section of the Rules. Additionally, this amendment will reduce regulatory concerns associated with Owner Licensees having to maintain secure custody of unredeemed vouchers in their possession for a 3-year period of time. The change in the expiration date will be prospective from the effective date of the amendment.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

Section Numbers:	Proposed Action:	Illinois Register Citation:
3000.625	Amendment	31 Ill. Reg. 9719, 7/13/07
3000.840	Amendment	31 Ill. Reg. 10394, 7/20/07
3000.1071	Amendment	31 Ill. Reg. 14982, 11/9/07

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under the State Mandate Act [30 ILCS 805].

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this notice in the *Illinois Register* to:

Michael Fries
Chief Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601

Fax No. 312/814-7253
mfries@revenue.state.il.us

13) Initial Regulatory Flexibility Analysis:

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

B) Reporting, bookkeeping or other procedures required for compliance: The proposed rulemaking will impose no additional requirements.

C) Types of professional skills necessary for compliance: The proposed rulemaking will impose no additional requirements.

14) Regulatory agenda on which this rulemaking was summarized: January 4, 2008

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

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CHAPTER IV: ILLINOIS GAMING BOARD

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ILLINOIS GAMING BOARD

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ILLINOIS GAMING BOARD

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ILLINOIS GAMING BOARD

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3000.1155 Transmittal of Record and Recommendation to the Board

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

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999, for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 29, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; emergency amendment at 28 Ill. Reg. 13238, effective September 22, 2004, for a maximum of 150 days; emergency expired February 18, 2005; amended at 29 Ill. Reg. 10590, effective July 7,

2005; emergency amendment at 29 Ill. Reg. 20095, effective November 23, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8643, effective April 19, 2006; amended at 30 Ill. Reg. 9177, effective April 26, 2006; amended at 31 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 3000.100 Definitions

For purposes of this Part the following terms shall have the following meanings:

"Act": The Riverboat Gambling Act [230 ILCS 10].

"Affiliate": An "Affiliate of", or person "Affiliated with", a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person.

"Alcoholic Liquors": Includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being.

"Attributed Interest": A direct or indirect interest in a Business Entity deemed to be held by a person not through the person's actual holdings but either through the holdings of the person's relatives or through a third party or parties on behalf of the person pursuant to a plan, arrangement or agreement.

"Bill Validator": Any electro-mechanical device attached either on or into an Electronic Gaming Device which accepts and analyzes the legitimacy of United States currency and/or Vouchers, validates the currency and/or Vouchers, stores the currency and/or Vouchers, and issues Electronic Credits equal to the value of currency and/or Vouchers inserted into the device.

"Board": The Illinois Gaming Board.

"Business Entity": A partnership, incorporated or unincorporated association or group, firm, corporation, limited liability company, partnership for shares, trust, sole proprietorship or other business enterprise.

"Chip": A non-metal or partly metal representative of value, redeemable for cash,

and issued and sold by a holder of an Owner's license for use in Gaming other than in Electronic Gaming Devices on such holder's Riverboat or Riverboats.

"Chip Float": The difference between the total face value of Chips received from vendors and the total face value of Chips accounted for through an inventory conducted by the Riverboat Gaming Operation.

"Computer Monitoring System": The gaming related system used to provide on-line, real-time monitoring of Electronic Gaming Devices and data acquisition capability in the format and media approved by the Administrator.

"Dependent": Any individual who received over half of his support in a calendar year from any other individual.

"Electronic Card": A card purchased from a holder of an Owner's license for use on that holder's Riverboat Gaming Operation as a substitute for Tokens in the conduct of gaming on an Electronic Gaming Device.

"Electronic Credit": A value owed to a patron on an Electronic Gaming Device.

"Electronic Gaming Device": Includes as approved Games under Section 3000.605 Single-Position Reel-Type, Single-Position Single-Game Video and Single-Position Multi-Game Video Electronic Gaming Devices.

"Electronic Gaming Device Drop": The total face value of Tokens or representations of Tokens (including without limitation foreign Tokens and slugs) collected from the drop bucket and United States currency and/or Vouchers collected from the Bill Validator drop box.

"Electronic Gaming Device Win": The Electronic Gaming Device Drop minus hand-paid jackpots minus hopper fills minus Vouchers issued.

"EPROM": An acronym for Erasable, Programmable, Read Only Memory, which is a microprocessor component that stores memory and affects payout percentage and/or contains a random number generator that selects the outcome of a Game on an Electronic Gaming Device.

"Excluded Person": Any person whose name appears on any Exclusion List, or any person whose name does not appear on an Exclusion List but who is excluded

or ejected pursuant to Section 5(c)(12) of the Act or as a result of meeting one or more of the criteria in Section 3000.720 of this Part.

"Exclusion List": A list or lists which contain the identities of persons who are to be excluded or ejected from any licensed Gaming operation in any jurisdiction. The list may include any person whose reputation or conduct is such that his presence within a Riverboat Gaming Operation may, in the opinion of the Board or the Administrator, call into question the honesty or integrity of the Gaming operation or pose a threat to the interests of the State of Illinois.

"Expiration Date": The one-year~~three-year~~ period, starting on the day of issuance, during which Vouchers may be redeemed for United States currency at a cashier's cage of a Riverboat Gaming Operation.

"Game": A gambling activity which is played for money, property, or anything of value, including without limitation those played with cards, Chips, Tokens, dice, implements, or electronic, electrical, or mechanical devices or machines.

"Gaming": The dealing, operating, carrying on, conducting, maintaining or exposing for play of any Game.

"Gaming Equipment/Supplies": A machine, mechanism, device, or implement which is integral to the operation of a Game or affects the result of a Game by determining win or loss, including without limitation: electronic, electrical, or mechanical devices or machines; cards or dice; layouts for Live Gaming Devices; any representative of value used with any Game, including without limitation Chips, Tokens, or Electronic Cards; Voucher Systems; Voucher Printers; Voucher Validation Terminals; Computer Monitoring Systems; and hardware and software related to any item described herein.

"Gaming Operations Manager": A person or business entity other than the holder of an Owner's license who has the ultimate responsibility to manage, direct or administer the conducting of Gaming.

"Hand": Either one Game in a series, one deal in a card Game, or the cards held by a player.

"Indirect Interest": An interest in a Business Entity that is deemed to be held by the holder of an Owner's license not through the holder's actual holdings in the

business entity but through the holder's holdings in other business entities.

"Institutional Investor": A "qualified institutional buyer" as defined by Securities and Exchange Commission Rule 144A (17 CFR 230.144A) under the Securities Act of 1933, as amended.

"Internal Control System": Proprietary internal procedures and administration and accounting controls designed by the holder of an Owner's license for the purpose of exercising control over the Riverboat Gaming Operation.

"Junketeer": A person or entity that facilitates a patron's participation in gaming at a Riverboat Gaming Operation and is compensated, not as an employee but as an independent contractor, by that Operation based upon how much the patron actually wagers or loses.

"Key Person": A Person identified by the Board under Section 3000.222 as subject to regulatory approval as a Person able to control, or exercise significant influence over, the management, assets, or operating policies of an owner or supplier licensee.

"Live Gaming Device": Any apparatus, other than an Electronic Gaming Device, upon which Gaming is conducted or which determines an outcome which is the object of a wager. This definition includes but is not limited to roulette wheels, keno machines, punchboard tickets and tables with layouts utilized in Games approved by the Board.

"Marketing Agent": A person or entity, other than a junketeer or an employee of a Riverboat Gaming Operation, who is compensated by the Riverboat Gaming Operation in excess of $100 per patron per trip for identifying and recruiting patrons.

"Non-Alterable Storage Media": An electronic storage medium that contains the program files that operate the game, which medium cannot be altered through the use of the circuitry or programming of the gaming device.

"Non-Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation, but bearing no value designation.

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

"Notice of Board Action": A Notice of Denial, Restriction, Suspension, Revocation, Nonrenewal, Fine, Exclusion or other action issued by the Board.

"Parent Company": A "parent company" of a specified person is an affiliate controlling such person directly, or indirectly through one or more intermediaries.

"Payout": Winnings earned on a wager.

"Person": "Person" includes both individuals and Business Entities.

"Petitioner": An applicant, licensee, or Excluded Person who requests a hearing upon issuance of a Notice of Board Action.

"Progressive Controller": The hardware and software that controls all communications among the machines within a progressive Electronic Gaming Device link and its associated progressive meter.

"Progressive Jackpot": An award for winning play in a Game, the value of which is determined by the contribution of a portion of each Wager placed into play or the combined amount of several wagers linked to a common jackpot award.

"Redemption Period": The 120-day period during which a Voucher may be used to acquire electronic credits from an Electronic Gaming Device or to obtain United States currency from a Voucher Validation Terminal. After their Redemption dates and prior to their Expiration dates, Vouchers may be redeemed for United States currency only at a cashier cage of a Riverboat Gaming Operation.

"Relative": Spouse, parents, grandparents, children, siblings, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law, whether by the whole or half blood, by marriage, adoption or natural relationship, and Dependents.

"Riverboat": A navigable vessel or a permanently moored vessel comprised of one or more barges that are permanently attached to operate as one barge.

"Riverboat Gaming Operation": The owner licensee, Gaming Operations Manager, or, as the context requires, the conducting of Gaming and all related activities, including without limitation the purveying of food, beverages, retail

goods and services, and transportation, on a Riverboat and at its Support Facilities.

"Signature": The definitive identity of an individual specific EPROM chip or other non-alterable storage media, determined by electronic analysis and reflective of the EPROM chip's game behavior capability.

"Substantial Owner": A person who has an ownership interest of 25% or more in a Business Entity.

"Supplier": Either a Gaming Operations Manager or a provider of Gaming Equipment, Gaming Equipment maintenance or repair services, security services or lessor of a Riverboat or dock facilities or a provider of any goods or services where payment is calculated by a percentage of a Riverboat Gaming Operation's revenues.

"Support Facility": A place of business which is part of, or operates in conjunction with, a Riverboat Gaming Operation and is owned in whole or in part by a holder of an Owner's or Supplier's license or any of their Key Persons, including without limitation Riverboats, offices, docking facilities, parking facilities, and land-based hotels or restaurants.

"Table Drop": The total amount of cash or cash equivalents contained in the drop box for Chips purchased at a Live Gaming Device.

"Table Win": The dollar amount won by the holder of an Owner's license through play at a live Game which is the total of the Table Drop plus ending Chip inventory plus credits minus opening Chip inventory minus fills.

"Theoretical Payout Percentage": The percentage of Tokens or Electronic Credits from amounts wagered that will be returned to players by an Electronic Gaming Device.

"Token": A metal representative of value, redeemable for cash only at the issuing Riverboat Gaming Operation, and issued and sold by a holder of an Owner's license for use in Gaming.

"Token Dispenser": Any mechanical or electrical device designed for the purpose of dispensing an amount of Tokens equal to the amount of currency inserted into

the device.

"Token Float": The difference between the total face value of Tokens received from vendors and the total face value of Tokens accounted for through an inventory conducted by the Riverboat Gaming Operation.

"Tournament EPROM": A specially designed EPROM with a mode of play that provides for a mathematically demonstrable payout of more than 100 percent.

"Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation and the specific value of the Chip.

"Voucher": A printed paper scrip representing the value in United States currency stated on the face of the scrip that is issued by a Voucher Printer connected to an Electronic Gaming Device at a Riverboat Gaming Operation and which scrip is redeemable for electronic credits or United States currency and is not a coupon or other promotional item.

"Voucher Float": The difference between the total face value of unexpired Vouchers issued by a Riverboat Gaming Operation and the total face value of Vouchers accounted for by the Riverboat Gaming Operation as redeemed or expired.

"Voucher Printer": A device designed for the purpose of issuing Vouchers at Electronic Gaming Devices at a Riverboat Gaming Operation.

"Voucher System": The hardware and software used to issue and validate Vouchers, record redemptions and account for Vouchers.

"Voucher Validation Terminal": A hard-wired and interfaced device that accepts Vouchers and communicates the Voucher information to the Voucher System for the System to validate the information. If the System confirms that the Voucher is valid, the terminal then stores the Voucher and issues United States currency equal to the value of the Voucher.

"Wager": A sum of money or thing of value risked.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: CONDUCT OF GAMING

Section 3000.635 Issuance and Use of Tokens and Vouchers for Gaming

a) No holder of an Owner's license shall issue or cause to be utilized in a Riverboat Gaming Operation any Tokens for Gaming unless such Tokens are approved by the Administrator. In requesting approval of such Tokens, the holder of an Owner's license shall first submit to the Administrator a detailed schematic of its proposed Token which shall show its front, back and edge, its diameter and thickness and any logo, design or wording to be contained thereon, all of which shall be depicted on such schematic as they will appear, both as to size and location, on the actual Token. Once the design schematics are approved by the Administrator, no Token shall be issued or utilized until a sample of such Token is also submitted and approved by the Administrator.

b) A holder of an Owner's license may, with the approval of the Administrator, issue metal Tokens designed for Gaming. Such Tokens shall:

1) Clearly identify the name and location of the Riverboat Gaming Operation issuing them;

2) Clearly state the face value of the Token;

3) Contain the statement "Not Legal Tender";

4) Not be deceptively similar to any current or past coin of the United States or a foreign country;

5) Be of a size or shape or have other characteristics which will physically prevent their use to activate lawful vending machines or other machines designed to be operated by coins of the United States; and

6) Not be manufactured from a ferromagnetic material or from a three-layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core or from a copper based alloy except if the total zinc, nickel, aluminum, magnesium and other alloying metal exceeds 25 percent of the Token's weight.

c) Tokens approved for issuance by a holder of an Owner's license shall be:

1) Issued to a patron upon payment therefor, or in accordance with a complimentary distribution program authorized pursuant to the Act;

2) Capable of insertion into designated Electronic Gaming Devices operated by the holder of an Owner's license for the purpose of activating play;

3) Available as a payout from the hopper of Electronic Gaming Devices equipped with a Token hopper; and

4) Redeemable by the patron in accordance with the Act.

d) A holder of an Owner's license may, with the prior approval of the Administrator, issue Vouchers through approved Voucher Printers in Electronic Gaming Devices. The Vouchers shall:

1) Clearly identify the name and location of the Riverboat Gaming Operation issuing them;

2) Clearly identify the specific Electronic Gaming Device issuing them;

3) Contain a unique validation number, which number or code shall be automatically generated by or caused to be generated by the Voucher System and not be alterable by any mechanical, electronic, digital or other means prior to issuance;

4) Clearly state the face value of the Voucher in both words and numbers;

5) Contain a date and time of issuance;

6) Clearly state a 120 day Redemption Period during which the Voucher may be redeemed at an Electronic Gaming Device, Voucher Validation Terminal or cashier cage of a holder of an Owner's license;

7) Be available as a payout from Voucher equipped Electronic Gaming Devices connected to the Voucher System, provided that both the Electronic Gaming Device and the Voucher System are functioning;

8) Be individually printed for face values of not less than $0.01 and not more than $3,000;

9) Contain a bar code which shall enable the Voucher System to access and validate the alpha or numeric information contained in subsections (d)(1) through (6) and display the information when the Voucher is redeemed, provided that only numeric information must be displayed on the System;

10) Clearly state that the Voucher may be redeemed for cash at the cashier cage of the holder of an Owner's license for one year~~three years~~ from the date of issuance;

11) Clearly state the following: "Vouchers issued by another Riverboat may not be used, exchanged or redeemed at this Riverboat";

12) List the unique validation number on the leading edge of each Voucher issued from a Voucher Printer;

13) Not be deceptively similar to the currency of the United States or a foreign country;

14) Contain at least one anti-counterfeiting measure, such as a unique bar code, which shall appear on one or both sides of the Voucher; and

15) Be promptly redeemable by the patron in accordance with this Part.

e) Vouchers must be capable of insertion into Voucher equipped Electronic Gaming Devices connected to the Voucher System for the purpose of obtaining Electronic Credits.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Medical Assistance Programs

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

3)

Section Numbers:	Proposed Action:
120.381	Amendment
120.510	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and P.A. 095-0546

5) Complete Description of the Subjects and Issues Involved: PA 095-0546 amended the Public Aid Code to expand eligibility for Health Benefits for Workers with Disabilities (HBWD). The law increases the income threshold to 350 percent of the federal poverty level guidelines. It also increases allowable non-exempt assets to $25,000 and exempts retirement accounts and medical savings accounts from consideration in eligibility determinations. Per the statute, up to $25,000 of the non-exempt assets and retirement and medical savings accounts will continue to be exempt for individuals who lose HBWD eligibility but continue to be eligible as a person with a disability. These changes are subject to federal approval. The law was effective in August. Further, the proposed amendment updates the income and asset requirements in the rule and also establishes payable premium amounts for persons in the higher income range established under the law. The premiums are reflected in the revised premium chart.

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

Sections:	Proposed Action:	Illinois Register Citation:
120.32	Amendment	31 Ill. Reg. 15424; November 26, 2007
120.33	New Section	31 Ill. Reg. 15424; November 26, 2007
120.60	Amendment	31 Ill. Reg. 16629; December 21, 2007

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

120.384 Amendment 31 Ill. Reg. 16629; December 21, 2007

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: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/557-7157

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

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

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: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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)

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

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; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; amended at 32 Ill. Reg. _____, effective _____.

SUBPART H: MEDICAL ASSISTANCE – NO GRANT

Section 120.381 Exempt Assets

AABD MANG-assets exempt from consideration for AABD MANG shall be as follows:

a) The following assets are exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:

1) Homestead property

2) Personal Property

A) Personal effects and household goods of reasonable value

(reasonable value means the client's equity value in such property does not exceed $2,000). Wedding and engagement rings and items required due to medical or physical condition.

B) Regardless of the value, personal effects and household goods are exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described in Section 120.386).

3) Resources (for example, land, buildings, equipment and supplies or tools) necessary for self-support up to $6,000 of the individual's equity in the income producing property, provided the property produces a net annual income of at least six percent of the excluded equity value of the property. The equity value in excess of $6,000 is applied toward the asset disregard. If the activity produces income that is less than six percent of the exempt equity due to reasons beyond the individual's control (for example, the individual's illness or crop failure) and there is a reasonable expectation that the individual's activity will increase to produce income equal to six percent of the equity value (for example, a medical prognosis that the individual is expected to respond to treatment or that drought resistant corn will be planted), the property is exempt. If the individual owns more than one piece of property and each produces income, each is looked at to determine if the six percent rule is met and then the amounts of the individual's equity in all of those properties are totaled to see if the total equity is $6,000 or less.

4) Automobile

A) Exclude one automobile, regardless of value, used by the client, spouse, or other dependent if:

i) it is necessary for employment;

ii) it is necessary for the medical treatment of a specific or regular medical problem;

iii) it is modified for operation by, or transportation of, a handicapped person;

iv) it is necessary because of factors such as climate, terrain or

distance to provide necessary transportation to perform essential daily activities; or

v) one vehicle for each spouse is exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described in Section 120.386).

B) If not excluded in subsection (a)(4)(A) of this Section, exclude one automobile to the extent the fair market value does not exceed $4500. Apply the excess fair market value toward the asset disregard (see 89 Ill. Adm. Code 113.142). The Department will determine fair market value in accordance with 89 Ill. Adm. Code 121.57(b)(2)(D)(iv).

C) For all other automobiles, apply the equity value (fair market value minus any encumbrance) toward the asset disregard (see 89 Ill. Adm. Code 113.142).

5) Life insurance policies with a total face value of $1,500 or less and all term life insurance policies. If the total face value exceeds $1,500, the cash surrender value must be counted as a resource.

b) Burial spaces and funds are exempt as follows:

1) Burial spaces that~~which~~ are intended for the use of the individual, his or her spouse, or any other member of his or her immediate family. Immediate family is defined as an individual's minor and adult children, including adopted children and stepchildren~~step-children~~, an individual's brothers, sisters, parents, adoptive parents, and the spouses of these individuals.

2) Funds set aside for the burial expenses of the individual and his or her spouse, subject to a limit of $1,500 each. This limit will be reduced by the face value of any excluded life insurance policy and the amount of any funds held in an irrevocable trust or other irrevocable arrangement that~~which~~ is available for burial expenses.

3) Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements which occurred the earlier of the date of first

SSI eligibility or the date of AABD eligibility, but no earlier than November 1, 1982 (see 20 CFR 416.1231(b)(5) (1992)).

4) Funds specifically and irrevocably set aside for the professional funeral services and burial expenses of the individual and his or her spouse, subject to a limit of $4,000 each, including prepaid funeral and burial plans. This limit will be increased annually by three percent.

c) Assets necessary for fulfillment of an approved plan for achieving self-support~~self support~~.

d) Trust funds are exempt as follows:

1) The principal of a trust fund only when the instrument establishing the trust specifically states the principal cannot be impaired.

2) The principal of a trust fund established under the Self Sufficiency Trust Fund Program [20 ILCS 1705/21.1].

e) Assets excluded by express provision of 20 CFR 416.1236 (1997).

f) Donations or benefits from fund raisers held for a seriously ill client provided the client or a responsible relative of the client does not have control (for example, not available to the client or the responsible relative) over the donations or benefits or the disbursement of donations or benefits.

g) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time~~one time~~ lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under Public Law 101-201.

h) Money received from the Social Security Administration under a Plan to Achieve Self-Support (PASS) and held in a separate account.

i) Disaster relief payments provided by federal, State or local government or a disaster assistance organization.

j) The amount of earned income tax credit that~~which~~ the client receives as advance payment or as a refund of federal income tax.

k) Retirement accounts that a person with a disability cannot access without penalty before the age of 59½ and medical savings accounts established pursuant to 26 USC 220 shall be exempt for persons seeking eligibility under Section 120.60 after losing eligibility under Section 120.510.

l) Up to $25,000 of assets shall be exempt after losing eligibility under Section 120.510.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART I: SPECIAL PROGRAMS

Section 120.510 Health Benefits for Workers with Disabilities

a) To be eligible for medical assistance under Health Benefits for Workers with Disabilities, an individual must meet all of the following eligibility requirements:

1) Cooperate in establishing eligibility as described in Section 120.308.

2) Meet citizenship/immigration status as described in Section 120.310.

3) Meet residency requirements as described in Section 120.311.

4) Be disabled as described in Section 120.314.

5) Assign rights to medical support and collection of payment as described in Section 120.319.

6) Furnish a Social Security number(s) as described in Section 120.327.

7) Be 16 through 64 years of age.

8) Have countable monthly income at or below 350~~200~~ percent of the Federal Poverty Level.

9) Have non-exempt assets at or below $25,000~~10,000~~.

10) Be employed pursuant to subsection (l)(1) of this Section or qualify for an

exception as described in subsection (l)(2) of this Section.

11) Pay a premium pursuant to subsections (m) and (n) of this Section.

b) An individual shall not be determined eligible if the individual is otherwise eligible for medical assistance without a spenddown.

c) An individual who is otherwise eligible for medical assistance with a spenddown, who meets the requirements of this Section, shall have the option of enrolling in medical assistance with a spenddown or Health Benefits for Workers with Disabilities.

d) An individual's eligibility shall be terminated if the individual no longer meets the requirements of this Section.

e) Certain assets shall be exempt from consideration in determining eligibility in accordance with Section 120.381. In addition, retirement accounts that the individual cannot access without penalty before the age of 59½ and medical savings accounts established pursuant to 26 USC 220 shall be exempt.

f) The earned and unearned income of the following persons shall be counted when determining eligibility, except as specified in subsections (g), (h) and (i) of this Section.

1) Income of the individual.

2) Income of the spouse.

3) Unearned income of a dependent child under the age of 18 years who is included in the income standard (see Section 120.20) because it is to the advantage of the individual.

g) Monthly unearned income shall be counted as described in Sections 120.330 through 120.345 and Sections 120.350, 120.355, 120.371 and 120.376.

h) Monthly earned income shall be considered as described in Sections 120.360, 120.361, 120.371, 120.372, 120.373 and 120.375.

i) The Department shall exempt earned income as provided in Section 120.362(a)

and (b)(1). In addition, work related expenses that are allowed as deductions for AABD MANG as described in Section 120.370 shall be deducted.

j) Application Process

1) Individuals can apply by completing an application provided by the Department and submitting it to an address specified by the Department.

2) The application must meet all requirements found at 89 Ill. Adm. Code 110.10(a), (c), (e) and (i).

k) Authorization of Medical Assistance Eligibility

1) Medical assistance coverage will not be provided for any month for which eligibility is established unless a premium is paid in accordance with subsections (m) and (n) of this Section.

2) Subject to subsections (k)(2)(A), (B) and (C) of this Section, the applicant may choose to receive medical assistance for months prior to the initial month of prospective eligibility as determined in accordance with subsections (m) and (n) of this Section.

A) Eligibility will be effective no earlier than the third month before the month of application if the applicant received covered medical services during that period and would have been eligible if he or she had applied for Health Benefits for Workers with Disabilities.

B) Months of backdated coverage selected must be consecutive and must be continuous with the initial month of prospective eligibility.

C) Monthly premiums must be paid for all the months of coverage.

l) Individuals Considered Employed

1) For purposes of this program, an individual shall be considered employed if the individual provides verification that current payment under the Federal Insurance Contributions Act (FICA) or Illinois Municipal Retirement Fund (IMRF) has been made on behalf of the individual.

2) Under the following circumstances, an individual may be enrolled in this program without providing evidence of employment as described in subsection (l)(1) of this Section:

A) Individuals who are not employed at the time of application, but who can verify that they will be employed within 60 days, may be enrolled but will not be considered eligible until they begin employment and pay the appropriate premium in accordance with subsections (m) and (n) of this Section.

B) Individuals who become unable to work for medical reasons after enrollment in this program who wish to remain in the program. Such individuals:

i) Must report to the Department within 30 days after the first day that they were unable to work.

ii) Must provide a physician's written statement that they are unable to work, but that the anticipated date for the return to work is within 90 days after the first day they were unable to work.

iii) Must pay premiums in accordance with subsections (m) and (n) of this Section for the months during which they do not work.

C) Individuals who cease employment for any other reason may continue to be enrolled for 30 days after the employment ends provided they pay premiums in accordance with subsections (m) and (n) of this Section for the period during which they do not work.

3) Eligibility shall be terminated:

A) If an individual determined to be employed according to subsection (l)(2)(A) of this Section does not provide evidence of employment pursuant to subsection (l)(1) of this Section within 30 days after enrollment.

B) If an individual is unable to work for medical reasons, as described in subsection (l)(2)(B) of this Section, for 90 days or more.

C) If an individual ceases employment for any other reason (subsection (l)(2)(C) of this Section) and does not obtain new employment within 30 days after cessation of employment.

m) Premiums

1) The Department must receive payment of the monthly premium for an applicant's initial prospective month of eligibility before the applicant can be enrolled in this program. If payment of the premium is received by the 20th day of the month, the initial month of prospective eligibility shall begin the first day of the following month. (For example, if the premium payment is received on February 20, coverage shall begin on March 1. If the premium payment is received after February 20, coverage shall begin on April 1.)

2) Premiums for months of backdated coverage must be paid within 90 days after the date of the notice of eligibility approval.

3) Subsequent premiums are due on the last day of the month prior to the month of coverage.

4) If payment of the premium is not received in full by the end of the month following the due date of the premium, coverage will terminate effective the end of the second month following the due date and collection action may be initiated by the Department for the unpaid premiums for months of coverage.

n) Determination of Premium Amount

1) Premiums shall be based upon an individual's combined gross unearned and countable earned income as determined at the point of application or review or redetermination of eligibility.

2) The Department shall reset a premium prospectively based on verified income.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

3) Premium amounts shall be established as set forth in the following monthly premium tables~~table~~.

$s Per Month

Countable Earned Income	Gross Unearned Income											
	0-250	251-500	501-750	751-1000	1001-1250	1251-1500	1501-1750	1751-2000	2001-2250	2251-2500	2501-2750	2751-3000
0-250	--	19	38	56	75	94	113	131	150	169	188	206
251-500	6	25	44	63	81	100	119	137	156	175	194	212
501-750	13	31	50	69	88	107	126	144	163	182	201	219
751-1000	19	38	56	75	94	113	132	150	169	188	207	225
1001-1250	25	44	63	81	100	119	137	156	175	194	213	231
1251-1500	31	50	79	87	106	125	144	162	181	200	219	237
1501-1750	38	57	76	94	113	132	151	169	188	206	226	244
1751-2000	44	63	82	100	119	138	157	175	194	213	232	250
2001-2250	50	69	88	106	125	144	163	181	200	219	238	256
2251-2500	56	75	94	112	131	150	169	187	206	225	244	262
2501-2750	63	82	101	119	138	157	176	194	213	232	251	269
2751-3000	69	88	107	125	144	163	182	200	219	238	257	275
3001-3250	75	94	113	131	150	169	188	206	225	244	263	281
3251-3500	81	100	119	137	156	175	194	212	231	250	269	287
3501-3750	88	107	126	144	163	182	201	219	238	257	276	294
3751-4000	94	113	132	150	169	188	207	225	244	263	282	300
4001-4250	100	119	138	156	175	194	213	231	250	269	288	306

4251-4500	106	125	144	162	181	200	219	237	256	275	294	312
4501-4750	113	132	151	169	188	207	226	244	263	282	301	319
4751-5000	119	138	157	175	194	213	232	250	269	288	307	325
5000 +	125	144	163	181	200	219	238	256	275	294	313	331

$s Per Month

Countable Earned Income	Gross Unearned Income								
	3001-3250	3251-3500	3501-3750	3751-4000	4001-4250	4251-4500	4501-4750	4751-5000	5000+
0-250	225	244	263	281	300	319	338	356	375
251-500	231	250	269	287	306	325	344	362	381
501-750	238	257	276	294	313	332	351	369	388
751-1000	244	263	282	300	319	338	357	375	394
1001-1250	250	269	288	306	325	344	363	381	400
1251-1500	256	275	294	312	331	350	369	387	406
1501-1750	263	282	301	319	338	357	376	394	413
1751-2000	269	288	307	325	344	363	382	400	419
2001-2250	275	294	313	331	350	369	388	406	425
2251-2500	281	300	319	337	356	375	394	412	431
2501-2750	288	307	326	344	363	382	401	419	438
2751-3000	294	313	332	350	369	388	407	425	444
3001-3250	300	319	338	356	375	394	413	431	450
3251-3500	306	325	344	362	381	400	419	437	456
3501-3750	313	332	351	369	388	407	426	444	463
3751-4000	319	338	357	375	394	413	432	450	469
4001-4250	325	344	363	381	400	419	438	456	475
4251-4500	331	350	369	387	406	425	444	462	481

4501-4750	338	357	376	394	413	432	451	469	488
4751-5000	344	363	382	400	419	438	457	475	494
5000+	350	369	388	406	425	444	463	481	500

~~Gross Unearned Income~~

		~~$0 to $250~~	~~$251 to $500~~	~~$501 to $750~~	~~$751 to $1000~~	~~Over $1000~~
~~Countable Earned Income~~	~~$0 – $250~~	~~---~~	~~$19~~	~~$38~~	~~$56~~	~~$ 75~~
	~~$250-$500~~	~~$ 6~~	~~$25~~	~~$44~~	~~$63~~	~~$ 81~~
	~~$501-$750~~	~~$13~~	~~$31~~	~~$50~~	~~$69~~	~~$ 88~~
	~~$751-$1000~~	~~$19~~	~~$38~~	~~$56~~	~~$75~~	~~$ 94~~
	~~Over $1000~~	~~$25~~	~~$44~~	~~$63~~	~~$81~~	~~$100~~

o) Medicaid Buy-In Program Revolving Fund (see 305 ILCS 5/12-10.6)

1) The Medicaid Buy-In Revolving Fund consists of premiums paid by eligible individuals under this Section.

2) Monies in the Fund may be used to pay costs incurred by the Department for:

A) Administering the Health Benefits for Workers with Disabilities (HBWD) program, including, but not limited to, staff, equipment, travel, outreach activities and other operating costs.

B) Personal assistance services (PAS) provided at an individual's work site. PAS under the HBWD program is limited to individuals who do not already receive PAS, have a need for such services on the basis of a disability as described in Section 120.314, and, except for their income and non-exempt assets, would be eligible for the Community Care Program as described at 89 Ill. Adm. Code 240. The need, amount and duration of PAS will be assessed through a determination of need process.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3)

Section Number:	Proposed Action:
140.11	Amendment

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

5) Complete Description of the Subjects and Issues Involved: The proposed amendment makes a change due to P.A. 95-0005 that no longer requires change of ownership for long term care facilities to go through the Health Facilities Planning Board. Change of ownership notifications to the Department will come from the Illinois Department of Public Health.

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

Sections:	Proposed Action:	Illinois Register Citation:
140.6	Amendment	31 Ill. Reg. 13570; October 5, 2007
140.82	Amendment	32 Ill. Reg. 298; January 11, 2008

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: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Tamara Tanzillo Hoffman

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded long-term care facilities

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this Rulemaking was Summarized: This proposed rulemaking was not anticipated when the most recent regulatory agenda was published.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section
140.1 Incorporation By Reference
140.2 Medical Assistance Programs
140.3 Covered Services Under Medical Assistance Programs
140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5 Covered Medical Services Under General Assistance
140.6 Medical Services Not Covered
140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.8 Medical Assistance For Qualified Severely Impaired Individuals
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section
140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Recovery of Money
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination or Revocation on Persons Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination,

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Suspension or Barring
140.20 Submittal of Claims
140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22 Magnetic Tape Billings (Repealed)
140.23 Payment of Claims
140.24 Payment Procedures
140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited
140.27 Assignment of Vendor Payments
140.28 Record Requirements for Medical Providers
140.30 Audits
140.31 Emergency Services Audits
140.32 Prohibition on Participation, and Special Permission for Participation
140.33 Publication of List of Sanctioned Entities
140.35 False Reporting and Other Fraudulent Activities
140.40 Prior Approval for Medical Services or Items
140.41 Prior Approval in Cases of Emergency
140.42 Limitation on Prior Approval
140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55 Recipient Eligibility Verification (REV) System
140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72 Drug Manual (Recodified)
140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section
140.80 Hospital Provider Fund
140.82 Developmentally Disabled Care Provider Fund
140.84 Long Term Care Provider Fund
140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95 Hospital Services Trust Fund
140.96 General Requirements (Recodified)
140.97 Special Requirements (Recodified)
140.98 Covered Hospital Services (Recodified)

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140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)
140.373	Utilization (Repealed)
140.374	Alternatives (Recodified)
140.375	Exemptions (Recodified)
140.376	Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390	Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391	Definitions (Recodified)
140.392	Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394	Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396	Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)

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140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section
140.400 Payment to Practitioners
140.402 Copayments for Noninstitutional Medical Services
140.405 SeniorCare Pharmaceutical Benefit (Repealed)
140.410 Physicians' Services
140.411 Covered Services By Physicians
140.412 Services Not Covered By Physicians
140.413 Limitation on Physician Services
140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Physicians
140.416 Optometric Services and Materials
140.417 Limitations on Optometric Services
140.418 Department of Corrections Laboratory
140.420 Dental Services
140.421 Limitations on Dental Services
140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists
140.425 Podiatry Services
140.426 Limitations on Podiatry Services
140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry
140.428 Chiropractic Services
140.429 Limitations on Chiropractic Services (Repealed)
140.430 Independent Clinical Laboratory Services
140.431 Services Not Covered by Independent Clinical Laboratories
140.432 Limitations on Independent Clinical Laboratory Services
140.433 Payment for Clinical Laboratory Services
140.434 Record Requirements for Independent Clinical Laboratories
140.435 Advanced Practice Nurse Services
140.436 Limitations on Advanced Practice Nurse Services
140.438 Imaging Centers
140.440 Pharmacy Services
140.441 Pharmacy Services Not Covered
140.442 Prior Approval of Prescriptions
140.443 Filling of Prescriptions
140.444 Compounded Prescriptions
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140.449 Payment of Pharmacy Items
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140.452 Mental Health Services
140.453 Definitions
140.454 Types of Mental Health Services
140.455 Payment for Mental Health Services
140.456 Hearings
140.457 Therapy Services
140.458 Prior Approval for Therapy Services
140.459 Payment for Therapy Services
140.460 Clinic Services
140.461 Clinic Participation, Data and Certification Requirements
140.462 Covered Services in Clinics
140.463 Clinic Service Payment
140.464 Hospital-Based and Encounter Rate Clinic Payments
140.465 Speech and Hearing Clinics (Repealed)
140.466 Rural Health Clinics (Repealed)
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140.469 Hospice
140.470 Eligible Home Health Providers
140.471 Description of Home Health Services
140.472 Types of Home Health Services
140.473 Prior Approval for Home Health Services
140.474 Payment for Home Health Services
140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.479 Limitations, Medical Supplies
140.480 Equipment Rental Limitations
140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
140.482 Family Planning Services
140.483 Limitations on Family Planning Services

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140.484 Payment for Family Planning Services
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140.486 Illinois Healthy Women
140.487 Healthy Kids Program Timeliness Standards
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140.490 Medical Transportation
140.491 Limitations on Medical Transportation
140.492 Payment for Medical Transportation
140.493 Payment for Helicopter Transportation
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140.496 Payment for Psychological Services
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SUBPART E: GROUP CARE

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140.503 Cessation of Payment for Improper Level of Care
140.504 Cessation of Payment Because of Termination of Facility
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140.506 Provider Voluntary Withdrawal
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140.524 Cessation of Payment Due to Loss of License
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140.533 General Administration Costs
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140.536 Organization and Pre-Operating Costs
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140.539 Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
140.540 Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541 Salaries Paid to Owners or Related Parties
140.542 Cost Reports – Filing Requirements
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140.544 Access to Cost Reports (Repealed)
140.545 Penalty for Failure to File Cost Reports
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140.553 General Administrative Costs Updates
140.554 Component Inflation Index (Repealed)
140.555 Minimum Wage
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140.565 Kosher Kitchen Reimbursement
140.566 Out-of-State Placement
140.567 Level II Incentive Payments (Repealed)
140.568 Duration of Incentive Payments (Repealed)

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140.569 Clients With Exceptional Care Needs
140.570 Capital Rate Component Determination
140.571 Capital Rate Calculation
140.572 Total Capital Rate
140.573 Other Capital Provisions
140.574 Capital Rates for Rented Facilities
140.575 Newly Constructed Facilities (Repealed)
140.576 Renovations (Repealed)
140.577 Capital Costs for Rented Facilities (Renumbered)
140.578 Property Taxes
140.579 Specialized Living Centers
140.580 Mandated Capital Improvements (Repealed)
140.581 Qualifying as Mandated Capital Improvement (Repealed)
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140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
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140.650 Certification of Developmental Training (DT) Programs
140.651 Decertification of Day Programs
140.652 Terms of Assurances and Contracts
140.680 Effective Date Of Payment Rate
140.700 Discharge of Long Term Care Residents
140.830 Appeals of Rate Determinations
140.835 Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND LOCAL GOVERNMENTAL ENTITIES

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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Section
140.850 Reimbursement of Administrative Expenditures
140.855 Administrative Claim Review and Reconsideration Procedure
140.860 County Owned or Operated Nursing Facilities (Repealed)
140.865 Sponsor Qualifications (Repealed)
140.870 Sponsor Responsibilities (Repealed)
140.875 Department Responsibilities (Repealed)
140.880 Provider Qualifications (Repealed)
140.885 Provider Responsibilities (Repealed)
140.890 Payment Methodology (Repealed)
140.895 Contract Monitoring (Repealed)
140.896 Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
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140.901 Functional Areas of Needs (Recodified)
140.902 Service Needs (Recodified)
140.903 Definitions (Recodified)
140.904 Times and Staff Levels (Repealed)
140.905 Statewide Rates (Repealed)
140.906 Reconsiderations (Recodified)
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140.908 Times and Staff Levels (Recodified)
140.909 Statewide Rates (Recodified)
140.910 Referrals (Recodified)
140.911 Basic Rehabilitation Aide Training Program (Recodified)
140.912 Interim Nursing Rates (Recodified)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section
140.920 General Description
140.922 Covered Services
140.924 Maternal and Child Health Provider Participation Requirements
140.926 Client Eligibility (Repealed)
140.928 Client Enrollment and Program Components (Repealed)
140.930 Reimbursement
140.932 Payment Authorization for Referrals (Repealed)

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SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section
140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
140.942 Definition of Terms (Recodified)
140.944 Notification of Negotiations (Recodified)
140.946 Hospital Participation in ICARE Program Negotiations (Recodified)
140.948 Negotiation Procedures (Recodified)
140.950 Factors Considered in Awarding ICARE Contracts (Recodified)
140.952 Closing an ICARE Area (Recodified)
140.954 Administrative Review (Recodified)
140.956 Payments to Contracting Hospitals (Recodified)
140.958 Admitting and Clinical Privileges (Recodified)
140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964 Contract Monitoring (Recodified)
140.966 Transfer of Recipients (Recodified)
140.968 Validity of Contracts (Recodified)
140.970 Termination of ICARE Contracts (Recodified)
140.972 Hospital Services Procurement Advisory Board (Recodified)
140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

Section
140.990 Primary Care Case Management Program
140.991 Primary Care Provider Participation Requirements
140.992 Populations Eligible to Participate in the Primary Care Case Management Program
140.993 Care Management Fees

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SUBPART J: ALTERNATE PAYEE PARTICIPATION

Section
140.1001 Registration Conditions for Alternate Payees
140.1002 Participation Requirements for Alternate Payees
140.1003 Recovery of Money for Alternate Payees
140.1004 Conditional Registration for Alternate Payees
140.1005 Revocation of an Alternate Payee

140.TABLE A Medichek Recommended Screening Procedures (Repealed)
140.TABLE B Geographic Areas
140.TABLE C Capital Cost Areas
140.TABLE D Schedule of Dental Procedures
140.TABLE E Time Limits for Processing of Prior Approval Requests
140.TABLE F Podiatry Service Schedule
140.TABLE G Travel Distance Standards
140.TABLE H Areas of Major Life Activity
140.TABLE I Staff Time and Allocation for Training Programs (Recodified)
140.TABLE J HSA Grouping (Repealed)
140.TABLE K Services Qualifying for 10% Add-On (Repealed)
140.TABLE L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
140.TABLE M Enhanced Rates for Maternal and Child Health Provider Services

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

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983;

amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg.

18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg.7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989;

amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill.

Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective

September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514,

effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill.

Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. _____, effective _____.

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.11 Enrollment Conditions for Medical Providers

a) In order to enroll for participation, providers shall:

1) Hold a valid, appropriate license where State law requires licensure of medical practitioners, agencies, institutions and other medical vendors;

2) Be certified for participation in the Title XVIII Medicare program where federal or State rules and regulations require such certification for Title XIX participation;

3) Be certified for Title XIX when federal or State rules and regulations so require;

4) Provide enrollment information to the Department in the prescribed format, and notify the Department, in writing, immediately whenever there is a change in any such information which the provider has previously submitted;

5) Provide disclosure, as requested by the Department, of all financial, beneficial, ownership, equity, surety, or other interests in any and all firms, corporations, partnerships, associations, business, enterprises, joint ventures, agencies, institutions or other legal entities providing any form of health care services to public aid recipients; and

6) Have a written provider agreement on file with the Department.

b) Approval of a corporate entity such as a pharmacy, laboratory, durable medical equipment and supplies provider, medical transportation provider, nursing home or renal satellite facility, as a participant in the Medical Assistance Program, applies only to the entity's existing ownership, corporate structure and location; therefore, participation approval is not transferable.

c) Except for children's hospitals described at 89 Ill. Adm. Code 149.50(c)(3), hospitals providing inpatient care that are certified under a single Medicare number shall be enrolled as an individual entity in the Medical Assistance Program. A children's hospital must be separately enrolled from the general care hospital with which it is affiliated.

d) Upon notification from the Illinois Department of Public Health of a change of ownership,~~Health Facilities Planning Board that an exception for a change of ownership has been granted,~~ the Department shall notify the prospective buyer of its obligation under Section 140.12(k) to assume liability for repayment to the Department for overpayments made to the current owner or operator. Such notification shall inform the prospective buyer of all outstanding known liabilities due to the Department by the facility and of any known pending Department actions against the facility that may result in further liability. For long term care providers, when there is a change of ownership of a facility or a facility is leased to a new operator, the provider agreement shall be automatically assigned to the new owner or lessee. Such assigned agreement shall be subject to all conditions under which it was originally issued, including, but not limited to, any existing plans of correction, all requirements of participation as set forth in Section 140.12 or additional requirements imposed by the Department.

e) For purposes of administrative efficiency, the Department may periodically require classes of providers to re-enroll in the Medical Assistance Program. Under such re-enrollments, the Department shall request classes of providers to submit updated enrollment information. Failure of a provider to submit such

information within the requested time frames will result in the dis-enrollment of the provider from the Program. Such dis-enrollment shall have no effect on the future eligibility of the provider to participate in the Program and is intended only for purposes of the Department's efficient administration of the Program. A dis-enrolled provider may reapply to the Program and all such re-applications must meet the requirements for enrollment.

f) For purposes of this Section, a vendor whose investor ownership has changed by 50 percent or more from the date the vendor was initially approved for enrollment in the Medical Assistance Program shall be required to submit a new application for enrollment in the Medical Assistance Program. All such applications must meet the requirements for enrollment.

g) Anything in this Subpart B to the contrary notwithstanding, enrollment of a non-emergency transportation vendor, as defined in Section 140.13, shall be conditional for 180 days, during which time the Department may terminate the vendor's eligibility to participate in the Medical Assistance Program without cause. Upon termination of a non-emergency transportation vendor under this subsection (g), the following individuals shall be barred from participation in the Medical Assistance Program:

1) individuals with management responsibility;

2) all owners or partners in a partnership;

3) all officers of a corporation or individuals owning, directly or indirectly, five percent or more of the shares of stock or other evidence of ownership in a corporation; or

4) an owner of a sole proprietorship.

h) Termination of eligibility, as described in subsection (g) of this Section, and resulting barrments are not subject to the Department's hearing process.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Processing, Classification Policies and Review Criteria

2) Code Citation: 77 Ill. Adm. Code 1110

3)

Section Numbers:	Proposed Action:
1110.10	Amend
1110.30	Repeal
1110.40	Amend
1110.50	Repeal
1110.55	Repeal
1110.60	Repeal
1110.65	Repeal
1110.110	Repeal
1110.120	Repeal
1110.130	Amend
1110.210	Amend
1110.220	Repeal
1110.230	Amend
1110.234	New
1110.310	Repeal
1110.320	Repeal
1110.410	Repeal
1110.420	Repeal
1110.510	Repeal
1110.520	Repeal
1110.530	Amend
1110.610	Repeal
1110.620	Repeal
1110.630	Amend
1110.710	Repeal
1110.720	Repeal
1110.730	Amend
1110.1410	Repeal
1110.1420	Repeal
1110.1430	Amend
1110.1710	Repeal
1110.1720	Repeal
1110.1730	Amend
1110.2310	Repeal

1110.2320	Repeal
1110.2330	Amend
1110.2410	Repeal
1110.2420	Repeal
1110.2430	Amend
1110.2510	Amend
1110.2520	Repeal
1110.2540	Amend
1110.2610	Amend
1110.2620	Repeal
1110.2640	Amend
1110.2710	Amend
1110.2720	Repeal
1110.2730	Amend
1110.2740	Amend
1110.2750	Amend
1110.2810	Amend
1110.2820	Repeal
1110.2830	Amend
1110.2930	New
1110.3030	New

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

5) A Complete Description of the Subjects and Issues Involved: General Applicability and Project Classification: Section 1110.10 was updated and outlines the responsibilities of the applicant to address all pertinent review criteria when a submitting a CON application. In Section 1110.40, there are language changes for clarification and an updated table showing project type and the corresponding applicable review criteria that must be addressed. Sections 1110.30, 1110.50 and 1110.55 will be repealed since they are obsolete. Section 1110.60 will be repealed, since the definition and review requirements have been incorporated into other sections of HFPB rules; and Section 1110.65 will be repealed, since no applications were ever received under this Section, and revisions to the statute concerning non-clinical care areas and a higher capital expenditure threshold have reduced the need for this option.

Discontinuation: In Section 1110.130, amendments add and clarify information requirements, including the disposition and relocation of medical records; certification that all required data will be submitted to HFPB/IDPH no later than 60 days following

the date of discontinuation; and documentation that the proposed discontinuation will not have an adverse impact on access to care for residents of the facility's market area.

Definitions: Proposed amendments would consolidate all definitions in Part 1100 and Part 1110 to Section 1100.220 – General Definitions. The proposed relocation and consolidation of definitions provides a central source for all review-based definitions. This will simplify the process of searching for definitions related to project review subjects and criteria.

Sections 1110.220; 1110.520; 1110.620; 1110.720; 1110.920; 1110.1420; 1110.1720; 1110.2320; 1110.2420; 1110.2520; 1110.2620; 1110.2720; and 1110.2820 will be repealed.

General Requirements: Proposed Sections 1110.210 and 1110.230 change Review Criteria to Information Requirements. The proposed Information Requirements will present an overview of the applicant, the proposed project, and all options considered and rejected, in favor of the proposed project. The three Information Requirements to be addressed are: Background of Applicant; Purpose of Project; and Alternatives to the Proposed Project.

Two of the redundant existing review criteria are incorporated into Category of Service review criteria in Sections F through AE of Part 1110. Existing criterion Project Scope and Size has been relocated to proposed Section 1110.232.

Project Scope and Size, Utilization and Unfinished/Shell Space: In the proposed new Section 1110.232, review criteria for both Size of Project and Project Services Utilization are relocated to a new Section (1110.234), which incorporates criteria concerning the physical aspects of a project, as well as utilization for projects that involve services, functions or equipment for which HFPB has not established utilization or occupancy standards in Part 1100.

In addition, this rule includes a new criterion for the review of Unfinished/Shell Space. HFPB is required to consider shell space or unfinished space proposed in a project, per a mandate of the Health Facilities Planning Act.

Category of Service Rules: A new format has been developed for all Category of Service review criteria. The new format reflects the intent and purposes of the Health Facilities Planning Act, and since the format will be applied to all Category of Service review

criteria, it provides a uniform approach to the review and assessment of proposed projects.

The proposed new format retains most of the existing requirements, and also incorporates Need and Location requirements from the existing General Review Criteria in Section 1110.230. Subparts D and E will be repealed, since the requirements have been incorporated into the Category of Service review criteria.

A new Section was added for one (1) new Category of Service: Long Term Acute Care Hospital – Review Criteria.

In addition, another new Section was added containing review criteria for Clinical Service Areas Other than Categories of Service.

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:
1110.210	Amend	31 Ill. Reg. 5935; 4/20/07
1110.220	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.230	Amend	31 Ill. Reg. 5935; 4/20/07
1110.234	New	31 Ill. Reg. 5935; 4/20/07
1110.310	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.320	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.410	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.420	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.510	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.520	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.530	Amend	31 Ill. Reg. 5935; 4/20/07
1110.610	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.620	Repeal	31 Ill. Reg. 5935; 4/20/07

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1110.630	Amend	31 Ill. Reg. 5935; 4/20/07
1110.1410	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.1420	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.1430	Amend	31 Ill. Reg. 5935; 4/20/07
1110.2310	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.2320	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.2330	Amend	31 Ill. Reg. 5935; 4/20/07
1110.2410	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.2420	Repeal	31 Ill. Reg. 5935; 4/20/07
1110.2430	Amend	31 Ill. Reg. 5935; 4/20/07
1110.3030	New	31 Ill. Reg. 5935; 4/20/07
1110.3210	Amend	32 Ill. Reg. 1050; 1/25/08
1110.3230	Amend	32 Ill. Reg. 1050; 1/25/08

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:

Public Hearing
Friday, February 15, 2008

at 1:00-4:00 p.m.
James R. Thompson Center
100 W. Randolph Street
Conference Room #9-031
Chicago, Illinois

In addition, public comment may be submitted within 45 calendar days from the date of publication of the proposed rulemaking to:

Claire Burman
Coordinator, Rules Development
Illinois Health Facilities Planning Board
100 W. Randolph Street, 6th Floor
Chicago, Illinois 60601

312/814-2565

e-mail: CLAIRE.BURMAN@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Hospitals, long term care facilities, ESRD facilities, Ambulatory Surgical Treatment Centers, Comprehensive Physical Rehabilitation Centers

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

C) Types of professional skills necessary for compliance: None

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

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

HEALTH FACILITIES PLANNING BOARD

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TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES PLANNING BOARD
SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

PART 1110
PROCESSING, CLASSIFICATION POLICIES AND REVIEW CRITERIA

SUBPART A: GENERAL APPLICABILITY AND PROJECT CLASSIFICATION

Section
1110.10 Introduction and Applicability~~to Part 1110~~
1110.20 Projects Required to Obtain a Permit (Repealed)
1110.30 Processing and Reviewing Applications (Repealed)
1110.40 Classification of Projects and Applicable Review Criteria
1110.50 Recognition of Services which~~Which~~ Existed Prior to Permit Requirements (Repealed)
1110.55 Recognition of Non-hospital Based Ambulatory Surgery Category of Service (Repealed)
1110.60 Master Design Projects (Repealed)
1110.65 Master Plan or Capital Budget Projects (Repealed)

SUBPART B: REVIEW CRITERIA – DISCONTINUATION

Section
1110.110 Introduction (Repealed)
1110.120 Discontinuation – Definition (Repealed)
1110.130 Discontinuation – Review Criteria

SUBPART C: GENERAL PURPOSE, MASTER DESIGN, AND FACILITY CONVERSION - INFORMATION REQUIREMENTS AND~~CHANGES OF OWNERSHIP~~ REVIEW CRITERIA

Section
1110.210 Introduction
1110.220 Definitions – General Review Criteria (Repealed)
1110.230 Project Purpose, Background and Alternatives – Information Requirements~~General Review Criteria~~
1110.234 Project Scope and Size, Utilization and Unfinished/Shell Space – Review Criteria
1110.235 Additional General Review Criteria for Master Design and Related Projects Only

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1110.240 Changes of Ownership, Mergers and Consolidations

SUBPART D: REVIEW CRITERIA RELATING TO ALL PROJECTS INVOLVING ESTABLISHMENT OF ADDITIONAL BEDS OR SUBSTANTIAL CHANGE IN BED CAPACITY

Section
1110.310 Introduction (Repealed)
1110.320 Bed Related Review Criteria (Repealed)

SUBPART E: MODERNIZATION REVIEW CRITERIA

Section
1110.410 Introduction (Repealed)
1110.420 Modernization Review Criteria (Repealed)

SUBPART F: CATEGORY OF SERVICE REVIEW CRITERIA – MEDICAL/SURGICAL, OBSTETRIC, PEDIATRIC AND INTENSIVE CARE

Section
1110.510 Introduction (Repealed)
1110.520 Medical/Surgical, Obstetric, Pediatric and Intensive Care – Definitions (Repealed)
1110.530 Medical/Surgical, Obstetric, Pediatric and Intensive Care – Review Criteria

SUBPART G: CATEGORY OF SERVICE REVIEW CRITERIA – COMPREHENSIVE PHYSICAL REHABILITATION

Section
1110.610 Introduction (Repealed)
1110.620 Comprehensive Physical Rehabilitation – Definitions (Repealed)
1110.630 Comprehensive Physical Rehabilitation – Review Criteria

SUBPART H: CATEGORY OF SERVICE REVIEW CRITERIA – ACUTE MENTAL ILLNESS AND CHRONIC MENTAL ILLNESS

Section
1110.710 Introduction (Repealed)
1110.720 Acute Mental Illness – Definitions (Repealed)
1110.730 Acute Mental Illness and Chronic Mental Illness – Review Criteria

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SUBPART I: CATEGORY OF SERVICE REVIEW CRITERIA – SUBSTANCE ABUSE/ADDICTION TREATMENT

Section
1110.810 Introduction (Repealed)
1110.820 Substance Abuse/Addiction Treatment – Definitions (Repealed)
1110.830 Substance Abuse/Addiction Treatment – Review Criteria (Repealed)

SUBPART J: CATEGORY OF SERVICE REVIEW CRITERIA – NEONATAL INTENSIVE CARE

Section
1110.910 Introduction
1110.920 Neonatal Intensive Care – Definitions
1110.930 Neonatal Intensive Care – Review Criterion

SUBPART K: CATEGORY OF SERVICE REVIEW CRITERIA – BURN TREATMENT

Section
1110.1010 Introduction (Repealed)
1110.1020 Burn Treatment – Definitions (Repealed)
1110.1030 Burn Treatment – Review Criteria (Repealed)

SUBPART L: CATEGORY OF SERVICE REVIEW CRITERIA – THERAPEUTIC RADIOLOGY

Section
1110.1110 Introduction (Repealed)
1110.1120 Therapeutic Radiology – Definitions (Repealed)
1110.1130 Therapeutic Radiology – Review Criteria (Repealed)

SUBPART M: CATEGORY OF SERVICE REVIEW CRITERIA – OPEN HEART SURGERY

Section
1110.1210 Introduction
1110.1220 Open Heart Surgery – Definitions

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1110.1230 Open Heart Surgery – Review Criteria

SUBPART N: CATEGORY OF SERVICE REVIEW CRITERIA – CARDIAC CATHETERIZATION

Section
1110.1310 Introduction
1110.1320 Cardiac Catheterization – Definitions
1110.1330 Cardiac Catheterization – Review Criteria

SUBPART O: CATEGORY OF SERVICE REVIEW CRITERIA – IN-CENTER HEMODIALYSIS~~CHRONIC RENAL DIALYSIS~~

Section
1110.1410 Introduction (Repealed)
1110.1420 Chronic Renal Dialysis – Definitions (Repealed)
1110.1430 In-Center Hemodialysis Projects~~Chronic Renal Dialysis~~ – Review Criteria

SUBPART P: CATEGORY OF SERVICE REVIEW CRITERIA – NON-HOSPITAL BASED AMBULATORY SURGERY

Section
1110.1510 Introduction
1110.1520 Non-Hospital Based Ambulatory Surgery – Definitions
1110.1530 Non-Hospital Based Ambulatory Surgery – Projects Not Subject to This Part
1110.1540 Non-Hospital Based Ambulatory Surgery – Review Criteria

SUBPART Q: CATEGORY OF SERVICE REVIEW CRITERIA – COMPUTER SYSTEMS

Section
1110.1610 Introduction (Repealed)
1110.1620 Computer Systems – Definitions (Repealed)
1110.1630 Computer Systems – Review Criteria (Repealed)

SUBPART R: CATEGORY OF SERVICE REVIEW CRITERIA – GENERAL LONG TERM~~LONG-TERM~~ CARE

Section

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1110.1710 Introduction (Repealed)
1110.1720 General Long Term~~Long-Term~~ Care – Definitions (Repealed)
1110.1730 General Long Term~~Long-Term~~ Care – Review Criteria

SUBPART S: CATEGORY OF SERVICE REVIEW CRITERIA – SPECIALIZED LONG-TERM CARE

Section
1110.1810 Introduction
1110.1820 Specialized Long-Term Care – Definitions
1110.1830 Specialized Long-Term Care – Review Criteria

SUBPART T: CATEGORY OF SERVICE REVIEW CRITERIA – INTRAOPERATIVE MAGNETIC RESONANCE IMAGING

Section
1110.1910 Introduction (Repealed)
1110.1920 Intraoperative Magnetic Resonance Imaging – Definitions (Repealed)
1110.1930 Intraoperative Magnetic Resonance Imaging – Review Criteria (Repealed)

SUBPART U: CATEGORY OF SERVICE REVIEW CRITERIA – HIGH LINEAR ENERGY TRANSFER (L.E.T.)

Section
1110.2010 Introduction (Repealed)
1110.2020 High Linear Energy Transfer (L.E.T.) – Definitions (Repealed)
1110.2030 High Linear Energy Transfer (L.E.T.) – Review Criteria (Repealed)

SUBPART V: CATEGORY OF SERVICE REVIEW CRITERIA – POSITRON EMISSION TOMOGRAPHIC SCANNING (P.E.T.)

Section
1110.2110 Introduction (Repealed)
1110.2120 Positron Emission Tomographic Scanning (P.E.T.) – Definitions (Repealed)
1110.2130 Positron Emission Tomographic Scanning (P.E.T.) – Review Criteria (Repealed)

SUBPART W: CATEGORY OF SERVICE REVIEW CRITERIA – EXTRACORPOREAL SHOCK WAVE LITHOTRIPSY

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Section
1110.2210 Introduction (Repealed)
1110.2220 Extracorporeal Shock Wave Lithotripsy – Definitions (Repealed)
1110.2230 Extracorporeal Shock Wave Lithotripsy – Review Criteria (Repealed)

SUBPART X: CATEGORY OF SERVICE REVIEW CRITERIA – SELECTED ORGAN TRANSPLANTATION

Section
1110.2310 Introduction (Repealed)
1110.2320 Selected Organ Transplantation – Definitions (Repealed)
1110.2330 Selected Organ Transplantation – Review Criteria

SUBPART Y: CATEGORY OF SERVICE REVIEW CRITERIA – KIDNEY TRANSPLANTATION

Section
1110.2410 Introduction (Repealed)
1110.2420 Kidney Transplantation – Definitions (Repealed)
1110.2430 Kidney Transplantation – Review Criteria

SUBPART Z: CATEGORY OF SERVICE REVIEW CRITERIA – SUBACUTE CARE HOSPITAL MODEL

Section
1110.2510 Introduction
1110.2520 Subacute Care Hospital Model – Definitions (Repealed)
1110.2530 Subacute Care Hospital Model – Review Criteria
1110.2540 Subacute Care Hospital Model – HFPB~~State Board~~ Review
1110.2550 Subacute Care Hospital Model – Project Completion

SUBPART AA: CATEGORY OF SERVICE REVIEW CRITERIA – POSTSURGICAL RECOVERY CARE CENTER ALTERNATIVE HEALTH CARE MODEL

Section
1110.2610 Introduction
1110.2620 Postsurgical Recovery Care Center Alternative Health Care Model – Definitions (Repealed)
1110.2630 Postsurgical Recovery Care Center Alternative Health Care Model – Review

Criteria
1110.2640 Postsurgical Recovery Care Center Alternative Health Care Model – HFPB~~State Board~~ Review
1110.2650 Postsurgical Recovery Care Center Alternative Health Care Model – Project Completion

SUBPART AB: CATEGORY OF SERVICE REVIEW CRITERIA – CHILDREN'S COMMUNITY-BASED HEALTH~~RESPITE~~ CARE CENTER ALTERNATIVE HEALTH CARE MODEL

Section
1110.2710 Introduction
1110.2720 Children's Respite Care Center Alternative Health Care Model – Definitions (Repealed)
1110.2730 Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model – Review Criteria
1110.2740 Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model – HFPB~~State Board~~ Review
1110.2750 Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model – Project Completion

SUBPART AC: CATEGORY OF SERVICE REVIEW CRITERIA – COMMUNITY-BASED RESIDENTIAL REHABILITATION CENTER ALTERNATIVE HEALTH CARE MODEL

Section
1110.2810 Introduction
1110.2820 Community-Based Residential Rehabilitation Center Alternative Health Care Model - Definitions (Repealed)
1110.2830 Community-Based Residential Rehabilitation Center Alternative Health Care Model – Review Criteria
1110.2840 Community-Based Residential Rehabilitation Center Alternative Health Care Model – State Board Review
1110.2850 Community-Based Residential Rehabilitation Center Alternative Health Care Model – Project Completion

SUBPART AD: CATEGORY OF SERVICE REVIEW CRITERIA - LONG TERM ACUTE CARE HOSPITAL BED PROJECTS

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Section
1110.2930 Long Term Acute Care Hospital Bed Projects - Review Criteria

SUBPART AE: CLINICAL SERVICE AREAS OTHER THAN CATEGORIES OF SERVICE – REVIEW CRITERIA

Section
1110.3030 Clinical Service Areas Other Than Categories of Service – Review Criteria

1110.APPENDIX A Medical Specialty Eligibility/Certification Boards
1110.APPENDIX B State and National Norms
1110.APPENDIX C Statutory Citations for All State and Federal Laws and Regulations Referenced in Chapter 3

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 18498; amended at 9 Ill. Reg. 3734, effective March 6, 1985; amended at 11 Ill. Reg. 7333, effective April 1, 1987; amended at 12 Ill. Reg. 16099, effective September 21, 1988; amended at 13 Ill. Reg. 16078, effective September 29, 1989; emergency amendments at 16 Ill. Reg. 13159, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 16 Ill. Reg. 16108, effective October 2, 1992; amended at 17 Ill. Reg. 4453, effective March 24, 1993; amended at 18 Ill. Reg. 2993, effective February 10, 1994; amended at 18 Ill. Reg. 8455, effective July 1, 1994; amended at 19 Ill. Reg. 2991, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 7981, effective May 31, 1995, for a maximum of 150 days; emergency expired October 27, 1995; emergency amendment at 19 Ill. Reg. 15273, effective October 20, 1995, for a maximum of 150 days; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2600; amended at 20 Ill. Reg. 4734, effective March 22, 1996; amended at 20 Ill. Reg. 14785, effective November 15, 1996; amended at 23 Ill. Reg. 2987, effective March 15, 1999; amended at 24 Ill. Reg. 6075, effective April 7, 2000; amended at 25 Ill. Reg. 10806, effective August 24, 2001; amended at 27 Ill. Reg. 2916, effective February 21, 2003; amended at 32 Ill. Reg. _____, effective _____.

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SUBPART A: GENERAL APPLICABILITY AND PROJECT CLASSIFICATION

Section 1110.10 Introduction and Applicability~~to Part 1110~~

An application for permit *shall be made to HFPB* and shall *contain such information as HFPB deems necessary* [20 ILCS 3960/6]. The applicant is responsible for addressing all pertinent review criteria that relate to the scope of a construction or modification project or to a project for the acquisition of major medical equipment. Applicable review criteria may include, but are not limited to, general review criteria, discontinuation, modernization, category of service criteria, and financial and economic feasibility criteria. Applications for permit shall be processed, classified and reviewed in accordance with all applicable HFPB rules. HFPB shall consider a project's conformance with all applicable review criteria in evaluating applications and in determining whether a permit should be issued. Definitions pertaining to this Part are contained in the Act and in 77 Ill. Adm. Code 1100 and 1130. HFPB's procedural rules relating to the processing and review of applications for permit are contained in 77 Ill. Adm. Code 1130.~~This Part of the Plan addresses activities and requirements utilized in the submission of an application for permit, its subsequent processing and the criteria applied in the review of a proposed project.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1110.30 Processing and Reviewing Applications (Repealed)

~~The procedures for processing and reviewing all applications for permit are specified in 77 Ill. Adm. Code 1130 (Health Facilities Planning Procedural Rules).~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.40 Classification of Projects and Applicable Review Criteria

When an application for permit has been received by HFPB~~the State Board~~, the Executive Secretary shall classify the project into one of the following classifications:

a) Emergency Review Classification

1) An emergency review classification applies only to~~Emergency projects are subject to the review process and are~~ those construction or modification projects that affect the inpatient operation of a health care facility and are

necessary because ~~there exists~~ one or more of the following conditions exist:

A) An imminent threat to the structural integrity of the building; or

B) An imminent threat to the safe operation and functioning of the mechanical, electrical~~,~~ or comparable systems of the building.

2) Applications classified as emergency will be reviewed for conformance~~Since the State Board recognizes that applications for emergency projects must be processed as expeditiously as possible, all applications will be reviewed in accordance~~ with the following review criteria:

A) Documentation has been provided that verifies the existence of one or both of the conditions specified~~the project is indeed an emergency project as defined~~ in subsection (a)(1)(A) or (B); and

B) Failure~~failure~~ to proceed immediately with the project would result in closure or impairment of the inpatient operation of the facility; and

C) The~~the~~ emergency conditions did not exist longer than 30 days prior to the receipt of the application for permit~~requesting the emergency classification~~.

b) Non-Substantive Review Classification~~.~~
Non-substantive projects are those construction or modification projects that are solely and entirely limited in scope to the type of project detailed in the following table. Applications classified as non-substantive will be reviewed for conformance with the applicable review criteria detailed in the following table for the type of project specified.~~establishment, construction, modification or equipment projects which consist solely of the characteristics detailed in this subsection. Applications shall be evaluated only against the following applicable review criteria of the Sections or Parts specified.~~

Type of Project~~Applicable Project Type~~	Applicable Review Criteria
~~Establishment of long-term care~~	~~Section 1110.230 and Part 1120~~

~~facilities licensed by the Department of Children and Family Services~~	
Discontinuation of ~~beds or~~ category of service	Section 1110.130 and Subpart AF, as applicable~~Part 1120~~
Facility conversion (e.g., change of ownership)~~Changes of ownership~~	Sections 1110.230~~(b)~~, 1110.234, 1110.240, and Subpart AF~~Part 1120~~
Long-term care for the Developmentally Disabled (Adult and Children) Categories of Service	Sections~~Section~~ 1110.230,~~; Section~~ 1110.234,~~1110.320(b); Section~~ 1110.1830,~~;~~ and Subpart AF~~Part 1120~~
Acute Care Beds Certified for Extended Care Category of Service as defined by the Centers for Medicare and Medicaid Services~~Health Care Financing Administration~~ (42 CFR 405.471 (1987))	Sections~~Section~~ 1110.230, 1110.234,~~(a), (c), (e);~~ and Subpart AF~~Part 1120~~
In-Center Hemodialysis~~Chronic Renal Dialysis~~ Category of Service	Sections~~Section~~ 1110.230,~~;~~ 1110.234,~~Part~~ 1110.1430,~~;~~ and Subpart AF~~Part 1120~~
Projects intended solely to provide care to patients suffering from Acquired Immunodeficiency Syndrome (AIDS) or related disorders	Sections~~Section~~ 1110.230,~~;~~ 234,~~Section 1110.320; Section 1110.420;~~ and Subpart AF~~Part 1120~~
~~Replacement of diagnostic or therapeutic equipment with comparable equipment to be utilized for a similar purpose~~	~~Section 1110.420(b); and Part 1120~~
Master design projects	Sections 1110.230, 1110.234, 1110.235, Subpart AF and Sections pertaining to any category of service proposed in the Master Plan Projects

Outpatient diagnostic and treatment facilities and space (including doctors offices), provided that the cost of all diagnostic and treatment components of the project does not exceed the capital expenditure review threshold~~Medical office buildings, fitness centers, and other non-inpatient space~~	Sections~~Section~~ 1110.230, 1110.234,~~(c), (d) and e);~~ and Subpart AF~~Part 1120~~
Fitness centers	Sections 1110.230, 1110.234, and Subpart AF
Community-Based Residential Rehabilitation Center Alternative Health Care Model	Section 1110.2830

c) Substantive Review Classification~~.~~
Substantive projects are those projects that are not classified as either emergency or non-substantive. Applications classified as substantive will be reviewed for conformance with all applicable review criteria contained in this Part.~~All projects that do not include components specified in subsection (b) shall be subject to review and shall be classified substantive unless they are found to be emergency projects as delineated in subsection (a).~~

~~d) Classification of projects with both non-substantive and substantive components. Projects which include both substantive and non-substantive components shall be classified as substantive.~~

de) Classification Appeal~~.~~
Appeal of any classification may be made to HFPB~~the State Board~~ at the next scheduled ~~State Board~~ meeting following the date of the Executive Secretary's determination.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1110.50 Recognition of Services which Existed Prior to Permit Requirements (Repealed)

~~Upon the expiration of thirty days following the effective date of this regulation, the State Board~~

~~will no longer accept petitions from any person seeking to prove that a particular category of service was in existence at a health care facility prior to the effective date of Board regulations requiring a permit for establishment of that service. As of that date, persons seeking recognition of a category of service must file an application for permit and receive approval for establishment of that service unless a specific provision exists within this Part regarding recognition of the category of service by the State Board.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.55 Recognition of Non-hospital Based Ambulatory Surgery Category of Service (Repealed)

~~a) Due to revisions in 77 Ill. Adm. Code 205.110 of the Agency's licensure standards for ambulatory surgical treatment centers (effective November 1, 1989), the State Board shall recognize the existence of the non-hospital based ambulatory surgery category of service for unlicensed facilities which become subject to such licensure requirements if the following documentation is submitted to the State Board:~~

~~1) verification that outpatient surgery had been performed at the facility prior to January 1, 1989; and~~

~~2) verification that due to revisions in 77 Ill. Adm. Code 205.110, effective November 1, 1989, the facility must obtain a license as an ambulatory surgical treatment center; or~~

~~3) verification that the facility was certified for reimbursement under Title XVIII of the Social Security Act (42 U.S.C.A. 1395x) for ambulatory surgery on or before January 1, 1989.~~

~~b) Documentation must be in the form of copies of medical records indicating the date of performance of surgical procedures at the facility, letter(s) from the Agency's licensure program stating that a license must be obtained, or a copy of the approval letter for participation in Title XVIII.~~

~~c) Recognition by the State Board of the non-hospital based ambulatory surgery category of service exempts the facility from the requirement of obtaining a permit for establishment of a health care facility and establishment of the service.~~

~~Such exemption shall be valid and remain in effect provided that the following requirements are met:~~

~~1) the procedures and scope of services provided at the facility remain restricted to the medical specialty(ies) (e.g. podiatry, ophthalmology, plastic surgery) in operation on or before January 1, 1989; and~~

~~2) the facility has obtained a license from the Agency no later than January 1, 1991; and~~

~~3) the facility has petitioned the State Board for recognition of the service no later than 90 days after the effective date of the revisions to Part 205.110.~~

~~d) Upon issuance of a license by the Agency, the ambulatory surgical treatment center shall be subject to the provisions of the Act regarding subsequent transactions which require permit. Failure to comply with any of the requirements of Section 1110.55(b) or subsequent discontinuation of the facility will void the recognition and exemption, and a permit will be required to establish the category of service.~~

~~e) The provisions of this Section became effective November 1, 1989.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.60 Master Design Projects (Repealed)

~~a) Definition~~
~~Master Design Project means a proposed project solely for the planning and/or design costs associated with an institutional master plan or with one or more future construction or modification projects. Project costs include: preplanning costs, site survey and soil investigation costs, architects fees, consultant fees and other fees related to planning or design. The master design project is for planning and design only and shall not contain any construction elements.~~

~~b) Review Coverage~~
~~Master design projects shall be classified as substantive. Such projects shall be reviewed to determine the financial and economic feasibility of the master design project itself, the need for the proposed master plan or for the future construction or modification projects, and the financial and economic feasibility of the~~

~~proposed master plan or of the future construction or modification projects. Findings concerning the need for beds and services and financial feasibility made during the review of the master design project are applicable only for the master design project. Approval by the State Board of a master design project does not obligate approval or positive findings on future construction or modification projects implementing the design. Future applications including those involving the replacement or addition of beds are subject to the review criteria and bed need in effect at the time of State Board review.~~

~~c) Applicable Review Standards~~

~~1) The estimated project costs of a master design project shall be subject to review only under the applicable review criteria of 77 Ill. Adm. Code 1120.~~

~~2) The master plan or the future construction or modification projects proposed pursuant to the master design project shall be subject to the applicable review criteria of 77 Ill. Adm. Code 1120 and the following review criteria found in this Part:~~

~~Section 1110.230(a)~~	~~Location~~
~~Section 1110.230(b)~~	~~Background of Applicant~~
~~Section 1110.230(c)~~	~~Alternatives to the Proposed Project~~
~~Section 1110.235~~	~~Additional General Review Criteria for Master Design and Related Projects Only~~
~~Section 1110.320(a)~~	~~Establishment of Additional Hospitals~~
~~Section 1110.320(b)~~	~~Allocation of Additional Beds~~
~~Section 1110.420(b)~~	~~Modern Facilities~~
~~Section 1110.530(a)~~	~~Unit Size~~
~~Section 1110.630(a)~~	~~Facility Size~~

~~Section 1110.730(a)~~	~~Unit Size~~
~~Section 1110.1230(b)~~	~~Establishment of Open Heart Surgery~~
~~Section 1110.1330(b)~~	~~Establishment or Expansion of Cardiac Catheterization Service~~
~~Section 1110.1330(d)~~	~~Modernization of Existing Cardiac Catheterization Equipment~~
~~Section 1110.1430(b)~~	~~Minimum Size of Renal Dialysis Center or Renal Dialysis Facilities~~
~~Section 1110.1730(a)~~	~~Facility Size~~
~~Section 1110.1730(c)~~	~~Zoning~~
~~Section 1110.1830(a)~~	~~Facility Size~~
~~Section 1110.1830(d)~~	~~Recommendation from State Department~~
~~Section 1110.1830(f)~~	~~Zoning~~
~~Section 1110.2330(a)~~	~~Establishment of a Program~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.65 Master Plan or Capital Budget Projects (Repealed)

~~a)~~ ~~Definition~~
~~Master Plan or Capital Budget Project means a series of proposed capital expenditures and other transactions that are to be initiated by or on behalf of a health care facility over a given period of time that does not exceed 24 consecutive calendar months. The expenditures or transactions may or may not be related or interdependent and may be undertaken by one or more construction contracts, leases, or other forms of obligation.~~

~~b)~~ ~~Review Coverage~~

~~Master Plan or Capital Budget projects shall be classified as substantive and be reviewed for conformance with the applicable review criteria of this Part and 77 Ill. Adm. Code 1120.~~

~~c) Submission of Application for Permit~~
~~The submission of an application for permit for a Master Plan or Capital Budget project is optional. An applicant may submit separate applications for permit for any individual project or transaction that in and of itself requires a permit.~~

~~d) Obligation, Completion, Alteration~~
~~All expenditures or transactions that are components of a Master Plan or Capital Budget shall be considered obligated upon receipt of the notarized certification of obligation described at 77 Ill. Adm. Code 1130.140. All components of the Master Plan or Capital Budget project must be completed in accordance with the time frames specified in the application for permit unless a renewal has been granted by the State Board. Alterations to a Master Plan or Capital Budget project are subject to the provisions of 77 Ill. Adm. Code 1130.750.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

SUBPART B: REVIEW CRITERIA – DISCONTINUATION

Section 1110.110 Introduction (Repealed)

~~When discontinuation as defined in Section 1110.120 is proposed, an application for permit is required. It is the intent of the State Board that all applications for permit for discontinuation be processed promptly. The review shall include opportunity for a public hearing.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.120 Discontinuation – Definition (Repealed)

~~"Discontinuation" means to cease operation of an entire health care facility or to cease operation of a category of service and is further defined in 77 Ill. Adm. Code 1130.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.130 Discontinuation – Review Criteria

a) Information Requirements - Review Criterion
The applicant shall provide at least the following information:

1) Identification of the categories of service and the number of beds, if any, that are to be discontinued;

2) Identification of all other clinical services and types of medical equipment detailed in Appendix A (e.g., surgery, emergency department, diagnostic imaging, outpatient clinics, etc.) that are to be discontinued;

3) The anticipated date of discontinuation for each identified service or for the entire facility;

4) The anticipated use of the physical plant and equipment after discontinuation occurs;

5) The anticipated disposition and location of all medical records pertaining to the services being discontinued and the length of time the records will be retained;

6) For applications involving discontinuation of an entire facility, certification by an authorized representative that all questionnaires and data required by HFPB or IDPH (e.g., annual questionnaires, capital expenditures surveys, etc.) will be provided through the date of discontinuation and that the required information will be submitted no later than 60 days following the date of discontinuation.

b) Reasons for Discontinuation - Review Criterion
The applicant must document that the discontinuation is justified by providing data that verifies that one or more factors, such as, but not limited to, the following, exist with respect to each service being discontinued:

1) Insufficient volume or demand for the service indicated by utilization levels that have been below minimum or target occupancy or utilization levels specified in 77 Ill. Adm. Code 1100 or in this Subchapter a for a period of at least 24 consecutive months;

2) Lack of sufficient staff to adequately provide the service, indicated by a staffing vacancy rate in excess of 10% for licensed health care professionals (full-time equivalent positions) involved in the provision of the service for a period of at least 24 consecutive months;

3) The facility or the service is not economically feasible, and continuation impairs the facility's financial viability, indicated by operating deficits for the service and for the facility for a period of at least 24 consecutive months;

4) The facility or the service is not in compliance with licensing or certification standards, indicated by actions taken by governmental or professional certification agencies that document noncompliance, and the failure or inability of the applicant to correct life safety or other types of deficiencies.

c) Impact on Access - Review Criterion
The applicant shall document that the discontinuation of each service or of the entire facility will not have an adverse impact upon access to care for residents of the facility's market area. The applicant shall provide copies of impact statements received from other resources or health care facilities located within 45 minutes travel time that indicate the extent to which the applicant's workload will be absorbed without conditions, limitations or discrimination. Factors that indicate an adverse impact upon access to service for the population of the facility's market area include, but are not limited to, the following:

1) The service will no longer exist within 45 minutes travel time of the applicant facility;

2) Discontinuation of the service will result in creating or increasing a shortage of beds or services, as calculated in the Inventory of Health Care Facilities;

3) Facilities or a shortage of other categories of service at determined by the provisions of 77 Ill. Adm. Code 1100 or other Sections of this Part.

HFPB NOTE: The facility's market area is defined by those zip code areas that account for at least 50% of the facility's admissions. The applicant must document that a written request for an impact statement was received by all

existing or approved health care facilities (that provide the same services as those proposed for discontinuation) located within 45 minutes travel time of the applicant facility. The request for an impact statement must be received by the facilities at least 30 days prior to submission of the application for permit. The applicant's request for an impact statement must include at least the following: the anticipated date of discontinuation of the service; the total number of patients that have received care or the number of treatments that have been provided (as applicable) for the latest 24 month period; whether the facility being contacted has or will have available capacity to accommodate a portion or all of the applicant's experienced caseload; and whether any restrictions or limitations preclude providing service to residents of the applicant's market area. The request shall allow 15 days after receipt for a written response from the contacted facility. Failure by an existing or approved facility to respond to the applicant's request for an impact statement within the prescribed 15-day response period shall constitute a non-rebuttable assumption that the discontinuation will not have an adverse impact for that facility.

~~a) The applicant must provide the following:~~

~~1) the reasons for the discontinuation;~~

~~2) the anticipated or actual date of discontinuation or the date the last person was or will be discharged or treated, as applicable;~~

~~3) the availability of other services or facilities in the planning area that are available and willing to assume the applicant's workload without conditions, limitations, or discrimination;~~

~~4) a closure plan indicating the process used to provide alternative services or facilities for the patients prior to or upon discontinuation; and~~

~~5) the anticipated use of the physical plant and equipment after discontinuation has occurred and the anticipated date of such use.~~

~~b) Each application for discontinuation will be analyzed to determine:~~

~~1) that the stated reasons for the proposed discontinuation are valid and are of such a nature to warrant discontinuation;~~

~~2) that the discontinuation project will not adversely affect the services needed by the planning area as calculated in the appropriate Appendix of this Subchapter;~~

~~3) that the discontinuation project will not have an adverse affect on the health delivery system by creating demand for services which cannot be met by existing area facilities;~~

~~4) that the discontinuation project is in the public interest and would not cause planning area residents unnecessary hardship by the limitation of access to needed services including the effect of the proposed discontinuation on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, the elderly and other underserved groups to obtain needed health care;~~

~~5) that (in every project for discontinuation except the discontinuation of a total health care facility) the anticipated use to which the physical plant and equipment will be put once the discontinuation takes place and the date such action will occur is appropriate.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART C: GENERAL PURPOSE, MASTER DESIGN, AND FACILITY CONVERSION - INFORMATION REQUIREMENTS AND~~CHANGES OF OWNERSHIP~~ REVIEW CRITERIA

Section 1110.210 Introduction

a) This Subpart contains all General Purpose and Scope, Master Design, and Facility Conversion Information Requirements and Review Criteria that apply in total or in part to all projects, with the exception of projects solely involving "Discontinuation".

b) Each required point of information is intended to provide HFPB with an overview of the need for a proposed project. HFPB shall consider a project's conformance with the applicable information requirements contained in this Subpart, as well as a project's conformance with all applicable review criteria indicated in subsection (c), to determine whether sufficient project need has been documented to issue a Certificate of Need (CON) permit.

c) The review criteria to be addressed (as required) are contained in the following Parts and Subparts:

1) Subpart C, Section 1110.232 contains review criteria concerning "Project Scope and Size", "Utilization" and "Unfinished Shell Space", and Section 1110.3030 contains review criteria concerning "Clinical Service Areas Other Than Categories of Service";

2) Subparts F through AE of this Part contain service specific review criteria that shall be addressed, as applicable, to the Category of Service included in a proposed project;

3) Subpart AF contains review criteria pertaining to financial and economic feasibility;

4) 77 Ill. Adm. Code 1130 contains the CON procedural requirements that may be applicable to a proposed project; and

5) *An application for a permit or exemption shall be made to HFPB upon forms provided by HFPB. This application shall contain such information as HFPB deems necessary*. [20 ILCS 3960/6] The application shall include affirmative evidence on which the Director may make the findings required under this Section and upon which HFPB may make its decision on the approval or denial of the permit or exemption.

d) Definitions for Subpart C and Subparts F through AE (service specific) are contained in the Act and in 77 Ill. Adm. Code 1100.220.

~~This Subpart C contains all General, Master Design, and Changes of Ownership Review Criteria that apply in total or in part to all projects except discontinuation and certain non substantive projects.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1110.220 Definitions – General Review Criteria (Repealed)

~~a) "Board Certified or Board Eligible Physician" means a physician who has satisfactorily completed an examination (or is "eligible" to take such examination)~~

~~in a medical specialty and has taken all of the specific training requirements for certification by a specialty board. For purposes of this definition, "medical specialty" shall mean a specific area of medical practice by health care professionals. A listing of specialty boards may be found in Appendix A of this Part.~~

~~b) "Health Services" means diagnostic, treatment or rehabilitative services which are grouped, for purposes of review, into clinically related Categories of Service based upon level or type of support functions, equipment or treatment provided to patients/residents. Categories of Service, when established or discontinued, are subject to review regardless of cost.~~

~~c) "Level of Care" means a specific degree of, type of, or approach to patient/resident care within a defined category of service.~~

~~d) "Surgery" means a category of service pertaining to the performance of any type of surgical operation(s). Surgical areas include but are not limited to:~~

~~1) Operating Rooms;~~

~~2) Nurses Station;~~

~~3) Nurses' Lockers and Lounge;~~

~~4) Doctor's Lockers and Lounge;~~

~~5) Scrub Areas;~~

~~6) General Storage Space;~~

~~7) Linen Storage Area;~~

~~8) Circulation Space;~~

~~9) Patient Holding Area; and~~

~~10) Recovery.~~

~~e) "Distinct Unit" means a physically distinct area comprising all beds served by a nursing station in which a particular category of service is provided and which utilizes a nursing staff assigned exclusively to the distinct area.~~

~~f) "DRG" means diagnostic related groups utilized in the Medicare program for health care reimbursement.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.230 Project Purpose, Background and Alternatives - Information Requirements~~General Review Criteria~~

The information requirements contained in this Section are applicable to all projects except projects that are solely for discontinuation. An applicant shall document the *qualifications, background, character and financial resources to adequately provide a proper service for the community* and also demonstrate that the project promotes the *orderly and economic development of health care facilities in the State of Illinois that avoids unnecessary duplication of facilities* or service. [20 ILCS 3960/2]

a) Background of Applicant – Information Requirements

1) An applicant must demonstrate that it is fit, willing and able, and *has the qualifications, background and character, to adequately provide a proper standard of health care service for the community*. [20 ILCS 3960/6] In evaluating the fitness of the applicant, HFPB shall consider whether adverse action has been taken against the applicant, or against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application. A health care facility is considered "owned or operated" by every person or entity that, within the three years preceding the filing of the application, owns, directly or indirectly, an ownership interest. If any person or entity owns any option to acquire stock, the stock shall be considered to be owned by such person or entity (refer to 77 Ill. Adm. Code 1100 and 1130 for definitions of terms such as "adverse action", "ownership interest" and "principal shareholder").

2) Examples of facilities owned or operated by an applicant include:

A) The applicant, Partnership ABC, owns 60% of the shares of Corporation XYZ, which manages the Good Care Nursing Home under a management agreement. The applicant, Partnership ABC, owns or operates Good Care Nursing Home.

B) The applicant, Healthy Hospital, a corporation, is a subsidiary of Universal Health, the parent corporation of Healthcenter Ambulatory Surgical Treatment Center (ASTC), its wholly-owned subsidiary. The applicant, Healthy Hospital, owns and operates Healthcenter ASTC.

C) Dr. Wellcare is the applicant. His wife is the director of a corporation that owns a hospital. The applicant, Dr. Wellcare, owns or operates the hospital.

D) Drs. Faith, Hope and Charity own 40%, 35% and 10%, respectively, of the shares of Healthfair, Inc., a corporation, that is the applicant. Dr. Charity owns 45% and Drs. Well and Care each own 25% of the shares of XYZ Nursing Home, Inc. The applicant, Healthfair, Inc., owns and operates XYZ Nursing Home, Inc.

3) The applicant shall submit the following information:

A) A listing of all health care facilities currently owned and/or operated by the applicant, including licensing, certification and accreditation identification numbers, as applicable;

B) A certified listing from the applicant of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application;

C) Authorization permitting HFPB and Illinois Department of Public Health (IDPH) access to any documents necessary to verify the information submitted, including, but not limited to: official records of IDPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. Failure to provide the authorization shall constitute an

abandonment or withdrawal of the application without any further action by HFPB.

4) If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this criterion. In such instances, the applicant shall attest that the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed to update and/or clarify data.

b) Purpose of the Project – Information Requirements
The applicant shall document that the project will provide health services that improve the health care or well-being of the market area population to be served. The applicant shall define the planning area or market area, or other, per the applicant's definition.

1) The applicant shall address the purpose of the project, i.e., identify the issues or problems that the project is proposing to address or solve. Information to be provided should include, but is not limited to, existing identification of problems or issues that need to be addressed, including:

A) The area's demographics or characteristics (e.g., rapid area growth rate, increased aging population, higher or lower fertility rates) that may affect the need for services in the future;

B) The population's morbidity or morality rates;

C) The incidence of various diseases in the area;

D) The population's financial ability to access health care (e.g., financial hardship, increased number of charity care patients, changes in the area population's insurance or managed care status);

E) The physical accessibility to necessary health care (e.g., new highways, other changes in roadways, changes in bus/train routes or changes in housing developments).

2) The applicant shall cite the source of the information (e.g., local health department Illinois Project for Local Assessment of Need (IPLAN) documents, Public Health Futures, local mental health plans, or other health assessment studies from governmental or academic and/or other independent sources).

3) The applicant shall detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being. Further, the applicant shall provide goals with quantified and measurable objectives with specific time frames that relate to achieving the stated goals.

4) For projects involving modernization, the applicant shall describe the conditions being upgraded. For facility projects, the applicant shall include statements of age and condition and any regulatory citations. For equipment being replaced, the applicant shall also include repair and maintenance records.

c) Alternatives to the Proposed Project – Information Requirements
The applicant shall document that the proposed project is the most effective or least costly alternative for meeting the health care needs of the population to be served by the project.

1) Alternative options that shall be addressed include, but are not limited to:

A) Proposing a project of greater or lesser scope and cost;

B) Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or a portion of the project's intended purposes; developing alternative settings to meet all or a portion of the project's intended purposes;

C) Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project; and

D) Other considerations.

2) Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of cost, patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation.

3) The applicant shall provide empirical evidence, including quantified outcome data, that verifies improved quality of care.

~~a) Location – Review Criterion~~
~~An applicant who proposes to establish a new health care facility or a new category of service or who proposes to acquire major medical equipment that is not located in a health care facility and that is not being acquired by or on behalf of a health care facility must document the following:~~

~~1) that the primary purpose of the proposed project will be to provide care to the residents of the planning area in which the proposed project will be physically located. Documentation for existing facilities shall include patient origin information for all admissions for the last 12 months. Patient origin information must be presented by zip code and be based upon the patient's legal residence other than a health care facility for the last six months immediately prior to admission. For all other projects for which referrals are required to support the project, patient origin information for the referrals is required. Each referral letter must contain a certification by the health care worker physician that the representations contained therein are true and correct. A complete set of the referral letters with original notarized signatures must accompany the application for permit.~~

~~2) that the location selected for a proposed project will not create a maldistribution of beds and services. Maldistribution is typified by such factors as: a ratio of beds to population (population will be based upon the most recent census data by zip code), within 30 minutes travel time under normal driving conditions of the proposed facility, which exceeds one and one half times the State average; an average utilization rate for the last 12 months for the facilities providing the proposed services within 30 minutes travel time under normal driving conditions of the proposed project which is below the Board's target occupancy rate; or the lack of a~~

~~sufficient population concentration in an area to support the proposed project.~~

~~b)~~ ~~Background of Applicant – Review Criterion~~

~~1)~~ ~~The applicant shall demonstrate that it is fit, willing and able, and *has the qualifications, background and character to adequately provide a proper standard of health care service for the community*. [20 ILCS 3960/6] In evaluating the fitness of the applicant, the State Board shall consider whether adverse action has been taken against the applicant, or against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application.~~

~~2)~~ ~~For purposes of this subsection:~~

~~A)~~ ~~"Adverse action" means conviction of any felony or any misdemeanor involving fraud or dishonesty; any supervision, probation, suspension, revocation, termination, or denial of a license or certificate or registration; imposition of a conditional license; termination or suspension from participation in any program involving payment authorized under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act, as amended; or denial, suspension, revocation or termination of accreditation by an nationally recognized organization.~~

~~B)~~ ~~A health care facility is considered "owned or operated" by every person or entity which, within the three years preceding the filing of the application, owns, directly or indirectly, an ownership interest as specified in this subsection (b)(2).~~

~~C)~~ ~~"Ownership interest" means any legal or equitable interest, including any interest arising from a lease or management agreement, which gives rise to participation in profits or losses, or which gives rise to the exercise or implementation of any decision-making authority respecting the operations or finances of the health care facility.~~

~~i)~~ ~~In the case of an individual, "ownership interest" includes any interest owned or exercised, directly or indirectly, by or for the individual's spouse or children.~~

~~ii)~~ ~~In the case of a partnership, "ownership interest" includes any interest owned or exercised, directly or indirectly, by or for any general partner, and the partnership is considered to be owned by all of its general partners.~~

~~iii)~~ ~~In the case of a limited liability company, "ownership interest" includes any interest owned, directly or indirectly, by or for any member or partner, and the limited liability company is considered to be owned by all of its members or partners.~~

~~iv)~~ ~~In the case of an estate, "ownership interest" includes any interest owned or exercised, directly or indirectly, by any beneficiary, and the estate is considered to be owned by all of its beneficiaries.~~

~~v)~~ ~~In the case of a trust, "ownership interest" includes any interest owned or exercised, directly or indirectly, by any beneficiary, and the trust is considered to be owned by all of its beneficiaries.~~

~~vi)~~ ~~In the case of a corporation, "ownership interest" includes any interest owned, directly or indirectly, by or for any principal shareholder, member, director or officer, and the corporation is considered to be owned by its principal shareholders, members, directors and officers.~~

~~D)~~ ~~"Principal shareholder" means:~~

~~i)~~ ~~In the case of a corporation having 30 or more shareholders, a person who, directly or indirectly, beneficially owns, holds or has the power to vote 5% or more of any class of securities issued by the corporation.~~

ii) In the case of a corporation having fewer than 30 shareholders, a person who, directly or indirectly, beneficially owns, holds or has the power to vote 50% or more of any class of securities issued by the corporation, or any member of any group of five or fewer shareholders which, directly or indirectly, beneficially own, hold or have the power to vote 80% or more of any class of securities issued by the corporation.

E) If any person or entity owns any option to acquire stock, the stock shall be considered to be owned by such person or entity.

3) Examples of facilities owned or operated by the applicant:

A) The applicant, Partnership ABC, owns 60% of the shares of Corporation XYZ which manages the Good Care Nursing Home under a management agreement. The applicant, Partnership ABC, owns or operates Good Care Nursing Home.

B) The applicant, Healthy Hospital, a corporation, is a subsidiary of Universal Health, the parent corporation of Healthcenter ASTC, its wholly-owned subsidiary. The applicant, Healthy Hospital, owns and operates Healthcenter ASTC.

C) Dr. Wellcare is the applicant. His wife is the director of a corporation which owns a hospital. The applicant, Dr. Wellcare, owns or operates the hospital.

D) Drs. Faith, Hope and Charity own 40%, 35%, and 10%, respectively, of the shares of Healthfair, Inc., a corporation, which is the applicant. Dr. Charity owns 45% and Drs. Well and Care each own 25% of the shares of XYZ Nursing Home, Inc. The applicant, Healthfair, Inc., owns and operates XYZ Nursing Home, Inc.

4) Documentation to be submitted shall include:

~~A)~~ ~~A listing of all health care facilities owned or operated by the applicant, including licensing, certification and accreditation identification numbers, if applicable;~~

~~B)~~ ~~proof of current licensure and, if applicable, certification and accreditation of all health care facilities owned or operated by the applicant;~~

~~C)~~ ~~a certification from the applicant listing any adverse action taken against any facility owned or operated by the applicant during the three years prior to the filing of the application;~~

~~D)~~ ~~authorizations permitting the State Board and Agency access to information in order to verify any documentation or information submitted in response to the requirements of this subsection (b)(4) or to obtain any additional documentation or information which the State Board or IDPH finds pertinent to this subsection (b)(4). Failure to provide the authorization shall constitute an abandonment or withdrawal of the application without any further action by the State Board.~~

~~5)~~ ~~If during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior application may be utilized to fulfill the data requirements of this Part. In these cases, applicant must state that the information has been previously provided to IDPH, cite the project for the prior application, and certify that no changes have occurred regarding the information which has been previously provided.~~

~~6)~~ ~~In addition to documentation submitted by the applicant, the State Board and IDPH shall review the official records of IDPH, other State agencies, and, where applicable, those of other states, respecting licensure and certification, and shall review the records of nationally recognized accreditation organizations to determine compliance with the requirements of this subsection (b).~~

~~c)~~ ~~Alternatives to the Proposed Project – Review Criterion. The applicant must document that the proposed project is the most effective or least costly alternative. Documentation shall consist of a comparison of the proposed project to~~

~~alternative options. Such a comparison must address issues of cost, patient access, quality, and financial benefits in both the short and long term. If the alternative selected is based solely or in part on improved quality of care, the applicant shall provide empirical evidence including quantifiable outcome data that verifies improved quality of care. Alternatives must include, but are not limited to: purchase of equipment, leasing or utilization (by contract or agreement) of other facilities, development of freestanding settings for service and alternate settings within the facility.~~

~~d) Need For the Project – Review Criterion. The project must be needed.~~

~~1) If the State Board has determined need pursuant to Part 1100, the proposed project shall not exceed additional need determined unless the applicant meets the criterion for a variance.~~

~~2) If the State Board has not determined need pursuant to Part 1100, the applicant must document that it will serve a population group in need of the services proposed and that insufficient service exists to meet the need. Documentation shall include but not be limited to:~~

~~A) area studies (which evaluate population trends and service use factors);~~

~~B) calculation of need based upon models of estimating need for the service (all assumptions of the model and mathematical calculations must be included);~~

~~C) historical high utilization of other area providers; and~~

~~D) identification of individuals likely to use the project.~~

~~3) If the project is for the acquisition of major medical equipment that does not result in the establishment of a category of service, the applicant must document that the equipment will achieve or exceed any applicable target utilization levels specified in Appendix B within 12 months after acquisition.~~

~~e) Size of Project – Review Criterion. The applicant must document that the size of a proposed project is appropriate.~~

~~1) The proposed project cannot exceed the norms for project size found in Appendix B of this Part unless the additional square footage beyond the norm can be justified by one of the following:~~

~~A) the proposed project requires additional space due to the scope of services provided;~~

~~B) the proposed project involves an existing facility where the facility design places impediments on the architectural design of the proposed project;~~

~~C) the proposed project involves the conversion of existing bed space and the excess square footage results from that conversion; or~~

~~D) the proposed project includes the addition of beds and the historical demand over the last five year period for private rooms has generated a need for conversion of multiple bed rooms to private usage.~~

~~2) When the State Board has established utilization targets for the beds or services proposed, the applicant must document that in the second year of operation the annual utilization of the beds or service will meet or exceed the target utilization. Documentation shall include, but not be limited to, historical utilization trends, population growth, expansion of professional staff or programs (demonstrated by signed contracts with additional physicians) and the provision of new procedures which would increase utilization.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1110.234 Project Scope and Size, Utilization and Unfinished/Shell Space - Review Criteria

a) Size of Project – Review Criterion
The applicant shall document that the amount of physical space proposed for the project is necessary and not excessive. The proposed gross square footage (GSF) cannot exceed the GSF standards of Appendix B, unless the additional GSF can be justified by documenting one of the following:

1) Additional space is needed due to the scope of services provided, justified by clinical or operational needs, as supported by published data or studies;

2) The existing facility's physical configuration has constraints or impediments and requires an architectural design that results in a size exceeding the standards of Appendix B;

3) The project involves the conversion of existing bed space that results in excess square footage.

b) Project Services Utilization - Review Criterion
This criterion is applicable only to projects or portions of projects that involve services, functions or equipment for which HFPB has not established utilization standards or occupancy targets in 77 Ill. Adm. Code 1100. The applicant shall document that, in the second year of operation, the annual utilization of the service or equipment shall meet or exceed the utilization standards specified in Appendix B.

c) Unfinished or Shell Space - Review Criterion
If the project includes unfinished space (i.e., shell space) that is to meet an anticipated future demand for service, the applicant must document that the amount of shell space proposed for each department or area is justified, and that such space will not exceed the GSF standards of Appendix B unless the amount of space is mandated by a governmental or certification agency. The applicant shall provide the following information:

1) The total gross square footage of the proposed shell space;

2) The anticipated use of the shell space, specifying the proposed GSF to be allocated to each department, area or function;

3) Evidence that the shell space is being constructed due to:

A) Requirements of governmental or certification agencies; or

B) Experienced increases in the historical occupancy or utilization of those departments, areas or functions proposed to occupy the shell space. The applicant shall provide the historical utilization for the

department, area or function for the latest five-year period for which data are available, and, based upon the average annual percentage increase for that period, project the future utilization of the department, area or function through the anticipated date when the shell space will be placed into operation.

d) Assurances
The applicant shall submit the following:

1) Verification that the applicant will submit to HFPB a CON application to develop and utilize the shell space, regardless of the capital thresholds in effect at that time or the categories of service involved;

2) The estimated date by which the subsequent CON application (to develop and utilize the subject shell space) will be submitted; and

3) The anticipated date when the shell space will be completed and placed into operation.

(Source: Added at 32 Ill. Reg. _____, effective _____)

SUBPART D: REVIEW CRITERIA RELATING TO ALL PROJECTS INVOLVING ESTABLISHMENT OF ADDITIONAL BEDS OR SUBSTANTIAL CHANGE IN BED CAPACITY

Section 1110.310 Introduction (Repealed)

~~Subpart D contains all Bed Related Review Criteria. These criteria apply only to projects proposing the addition of inpatient beds to a Category of Service and are utilized in addition to the General Review Criteria outlined in Subpart C.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.320 Bed Related Review Criteria (Repealed)

~~a) Establishment of Additional Hospitals – Review Criterion. A proposed general hospital to be located within a Metropolitan Statistical Area (M.S.A.*) must contain a minimum of 100 MS beds.~~

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

~~AGENCY NOTE: *M.S.A.'s are defined and named in the U.S. Bureau of the Census publication, Metropolitan Statistical Areas: 1984, available from the U.S. Government Printing Office, Washington, D.C. 20402.~~

~~b) Allocation of Additional Beds – Review Criterion. The applicant proposing to establish a category of service must document that access to the service will be improved. Documentation shall consist of at least one of the following:~~

~~1) the proposed service is not available within the planning area;~~

~~2) existing facilities have restricted admission policies resulting in access limitations;~~

~~3) existing service providers are experiencing occupancy levels in excess of the category of service target levels;~~

~~4) the travel time to existing service providers is excessive (exceeds 45 minutes) for area residents to be served by the project.~~

~~c) Addition of Beds to Existing Facilities – Review Criterion~~

~~1) The applicant must document that the addition of beds is necessary. Documentation shall consist of evidence that:~~

~~A) existing inpatient bed services over the latest 12 month period have averaged at or above the target occupancy; or~~

~~B) when occupancy levels over that period fall below the target occupancy the services affected cannot be converted to provide the needed bed space due to architectural or programmatic considerations.~~

~~2) An applicant proposing to add beds while operating an acute care service (for purposes of this subsection, acute care services means: M-S, OB, Pediatrics, ICU, Acute Mental Illness, and Burn services) must document the appropriateness of the length of stay in existing services. Documentation shall consist of a comparison of patient length of stay with other providers within the planning area. An applicant whose existing services have a length of stay longer than that of other area providers must~~

~~document that the severity or type of illness treated at the applicant facility is greater.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

SUBPART E: MODERNIZATION REVIEW CRITERIA

Section 1110.410 Introduction (Repealed)

~~Subpart E contains all Modernization Review Criteria. These criteria apply only to modernization projects and are utilized in addition to the General Review Criteria outlined in Subpart C.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.420 Modernization Review Criteria (Repealed)

~~a) Modernization of Beds – Review Criterion. The applicant must document that the number of beds proposed in each category of service affected does not exceed the number of beds needed to support the facility's utilization in each service proposed at the appropriate modernization target as found in Part 1100. (Utilization shall be based upon the latest 12 month period for which data are available.)~~

~~b) Modern Facilities – Review Criterion. The applicant must document that the proposed project meets one of the following:~~

~~1) The proposed project will result in the replacement of equipment or facilities which have deteriorated and need replacement. Documentation shall consist of, but is not limited to: historical utilization data, downtime or time spent out-of-service due to operational failures, upkeep and annual maintenance costs, and licensure or fire code deficiency citations involving the proposed project.~~

~~2) The proposed project is necessary to provide expansion for diagnostic treatment, ancillary training, or other support services to meet the requirements of existing services or services previously approved to be added or expanded. Documentation shall consist of but is not limited to: historical utilization data, evidence of changes in industry standards,~~

changes in the scope of services offered, and licensure or fire code deficiency citations involving the proposed project.

c) Major Medical Equipment – Review Criterion
Proposed projects for the acquisition of major medical equipment must document that the equipment will achieve or exceed any applicable target utilization levels specified in Appendix B within 12 months after acquisition.

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

SUBPART F: CATEGORY OF SERVICE REVIEW CRITERIA – MEDICAL/SURGICAL, OBSTETRIC, PEDIATRIC AND INTENSIVE CARE

Section 1110.510 Introduction (Repealed)

Subpart F contains Review Criteria which pertain to the Medical/Surgical, Obstetric, Pediatric and Intensive Care categories of service. These Review Criteria are utilized in addition to the "General Review Criteria" outlined in Subpart C and any other applicable Review Criteria outlined in Subparts D and E.

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.520 Medical/Surgical, Obstetric, Pediatric and Intensive Care – Definitions (Repealed)

a) Medical/Surgical

1) "Medical Surgical Service" means a category of service pertaining to the medical surgical care performed at the direction of a physician in behalf of patients by physicians, dentists, nurses and other professional and technical personnel. For purposes of this Subchapter, the medical surgical category of service includes such subcategories of service as medical, surgical, ophthalmology, intermediate intensive care, tuberculosis, gynecology (outside obstetric (OB) department), research, eyes-ears-nose and throat, orthopedic, neurology, cardio-thoracic-vascular, trauma, inpatient renal dialysis, special care units, substance abuse/addiction treatment, dental and urology. The medical surgical category of service does not include the following categories of service and their subcategories:

~~A) Obstetric Service;~~

~~B) Pediatric Service;~~

~~C) Intensive Care Service;~~

~~D) Rehabilitation Service;~~

~~E) Acute Mental Illness Treatment Service;~~

~~F) Neonatal Intensive Care Service;~~

~~G) Burn Treatment Service;~~

~~H) General Long-Term Care Categories of Service; and~~

~~I) Specialized Long-Term Care Categories of Service.~~

~~2) "Medical Surgical Unit" means an assemblage of inpatient beds and related facilities in which medical-surgical services are provided to a defined and limited class of patients according to their particular medical care needs.~~

~~b) Obstetrics~~

~~1) "Combined Maternity and Gynecological Unit" means an entire facility or a distinct part of a facility which provides both a program of maternity care (as defined in subsection (b)(3) below) and a program of obstetric gynecological care (as defined in subsection (b)(5) below) and which is designed, equipped, organized and operated in accordance with the requirements of the Hospital Licensing Act [210 ILCS 85].~~

~~2) "Fertility Rate" means projections of population fertility based upon resident birth occurrence as provided by IDPH.~~

~~3) "Maternity Care" means a subcategory of obstetric service related to the medical care of the patient prior to and during the act of giving birth either to a living child or to a dead fetus and to the continuing medical care of~~

~~both patient and newborn infant under the direction of a physician in behalf of the patient by physicians, nurses, and other professional and technical personnel.~~

~~4) "Maternity Facility or Unit" means an entire facility or a distinct part of a facility which provides a program of maternity and newborn care and which is designed, equipped, organized, and operated in accordance with the requirements of the Hospital Licensing Act.~~

~~5) "Obstetric Gynecological Care" means a subcategory of obstetric service where medical care is provided to clean gynecological, surgical, or medical cases which are admitted to a postpartum section of an obstetric unit in accordance with the requirements of the Hospital Licensing Act.~~

~~6) "Obstetric Service" means a category of service pertaining to the medical or surgical care of maternity and newborn patients or medical or surgical cases which may be admitted to a postpartum unit.~~

~~c) Pediatrics~~

~~1) "Designated Pediatric Beds" means beds within the facility which are primarily used for pediatric patients and are not a component part of a distinct pediatric unit as defined in subsection (c)(2) below.~~

~~2) "Pediatric Facility or Distinct Pediatric Unit" means an entire facility or a distinct unit of a facility, where the nurses' station services only that unit, which provides a program of pediatric service and is designed, equipped, organized and operated to render medical-surgical care to the 0-14 age population.~~

~~3) "Pediatric Service" means a category of service for the delivery of treatment pertaining to the non-intensive medical-surgical care of a pediatric patient (0-14 years in age) performed at the direction of a physician in behalf of the patient by physicians, dentists, nurses, and other professional and technical personnel.~~

~~d) Intensive Care~~

~~1) "Intensive Care Service" means a category of service providing the coordinated delivery of treatment to the critically ill patient or to patients requiring continuous care due to special diagnostic considerations requiring extensive monitoring of vital signs through mechanical means and through direct nursing supervision. This service is given at the direction of a physician in behalf of patients by physicians, dentists, nurses, and other professional and technical personnel. The intensive care category of service includes the following subcategories; medical Intensive Care Unit (ICU), surgical ICU, coronary care, pediatric ICU, and combinations of such ICU. This category of service does not include intermediate intensive or coronary care and special care units which are included in the medical surgical category of service.~~

~~2) "Intensive Care Unit" means a distinct part of a facility which provides a program of intensive care service and which is designed, equipped, organized and operated to deliver optimal medical care for the critically ill or for patients with special diagnostic conditions requiring specialized equipment, procedures and staff, and which is under the direct visual supervision of a qualified professional nurses' staff. Effective February 15, 2003, the repeal of 77 Ill. Adm. Code 1110.1010, 1110.1020 and 1110.1030, the beds and corresponding utilization for the Burn Treatment category of service will be included in the Intensive Care category of service.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.530 Medical/Surgical, Obstetric, Pediatric and Intensive Care – Review Criteria

a) Introduction

1) This Section applies to projects involving the following categories of hospital bed services: Medical/Surgical; Obstetrics; Pediatrics; and Intensive Care. Applicants proposing to establish, expand or modernize a category of hospital bed service shall comply with the applicable subsections of this Section, as follows:

PROJECT TYPE	REQUIRED REVIEW CRITERIA

Establishment of Services or Facility	(b)(1) -	Planning Area Need – 77 Ill. Adm. Code 1100 (formula calculation)
	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(3) -	Planning Area Need – Service Demand - Establishment of Bed Category of Service
	(b)(5) -	Planning Area Need - Service Accessibility
	(c)(1) -	Unnecessary Duplication of Services
	(c)(2) -	Maldistribution
	(c)(3) -	Impact of Project on Other Area Providers
	(e)(1) -	Staffing Availability
	(f) -	Performance Requirements
	(g) -	Assurances
Expansion of Existing Services	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(4) -	Planning Area Need – Service Demand – Expansion of Existing Bed Category of Service
	(e)(1) -	Staffing Availability
	(f) -	Performance Requirements
	(g) -	Assurances
Category of Service Modernization	(d)(1) -	Deterioriated Facilities
	(d)(2) & (3) -	Documentation
	(d)(4) -	Occupancy
	(f) -	Performance Requirements

2) If the proposed project involves the replacement of a hospital or service onsite, the applicant shall comply with the requirements listed in subsection (a)(1) for "Category of Service Modernization" plus subsection (g) (Assurances).

3) If the proposed project involves the replacement of a hospital or service on a new site, the applicant shall comply with the requirements of subsection (a)(1) for "Establishment of Services or Facility".

4) If the proposed project involves the replacement of a hospital or service (onsite or new site), the number of beds being replaced shall not exceed the number justified by historical occupancy rates for each of the latest two years, unless additional beds can be justified per the criteria for "Expansion of Existing Services".

b) Planning Area Need - Review Criterion
The applicant shall document that the number of beds to be established or added is necessary to serve the planning area's population, based on the following:

1) 77 Ill. Adm. Code 1100 (formula calculation)

A) The number of beds to be established for each category of service is in conformance with the projected bed deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.

B) The number of beds proposed shall not exceed the number of the projected deficit, to meet the health care needs of the population served, in compliance with the occupancy standard specified in 77 Ill. Adm. Code 1100.

2) Service to Planning Area Residents

A) Applicants proposing to establish or add beds shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.

B) Applicants proposing to add beds to an existing category of bed service shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the area. For all other projects, applicants shall document that at least 50% of the projected patient volume will be from residents of the area.

C) Applicants proposing to expand an existing category of hospital bed service shall submit patient origin information by zip code, based upon the patient's legal residence (other than a health care facility) for the last six months immediately prior to admission.

3) Service Demand – Establishment of Bed Category of Service
The number of beds proposed to establish a new category of hospital bed service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new hospital, the applicant shall submit projected referrals.

A) Historical Referrals
If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for each proposed category of hospital bed service, for each of the latest two years. Documentation of the referrals shall include: patient origin by zip code; name and specialty of referring physician; name and location of the recipient hospital.

B) Projected Referrals
An applicant proposing to establish a bed category of service or establish a new hospital shall submit the following:

i) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing facilities located in the area during the 12-month period prior to submission of the application;

ii) An estimated number of patients the physician will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's documented historical caseload;

iii) The physician's notarized signature, the typed or printed name of the physician, the physician's office address, and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

4) Service Demand – Expansion of Existing Bed Category of Service
The number of beds to be added for each category of service is necessary to reduce the facility's experienced high occupancy and to meet a projected demand for service. The applicant shall document subsection (b)(4)(A) and either subsection (b)(4)(B) or (C):

A) Historical Service Demand

i) An average annual occupancy rate that has equaled or exceeded occupancy standards for the category of service, as specified in 77 Ill. Adm. Code 1100, for each of the latest two years;

ii) If patients have been referred to other facilities in order to receive the subject services, the applicant shall provide documentation of the referrals, including: patient origin by zip code; name and specialty of referring physician; and name and location of the recipient hospital, for each of the latest two years.

B) Projected Referrals
The applicant shall provide the following:

i) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing facilities located in the area during the 12-month period prior to submission of the application;

ii) An estimated number of patients the physician will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's experienced caseload. The percentage of project referrals used to justify the proposed expansion cannot exceed the historical

percentage of applicant market share within a 24-month period after project completion;

iii) Each referral letter shall contain the physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

C) Projected Service Demand – Based on Rapid Population Growth: If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as experienced annually within the latest 24-month period), the projected service demand shall be determined as follows:

i) The applicant shall define the facility's market area based upon historical patient origin data by zip code or census tract;

ii) Population projections shall be produced, using, as a base, the population census or estimate for the most recent year, for county, incorporated place, township or community area, by the U.S. Census Bureau or IDPH;

iii) Projections shall be for a maximum period of 10 years from the date the application is submitted;

iv) Historical data used to calculate projections shall be for a number of years no less than the number of years projected;

v) Projections shall contain documentation of population changes in terms of births, deaths and net migration for a period of time equal to or in excess of the projection horizon;

vi) Projections shall be for total population and specified age groups for the applicant's market area, as defined by HFPB, for each category of service in the application; and

vii) Documentation on projection methodology, data sources, assumptions and special adjustments shall be submitted to HFPB.

5) Service Accessibility
The number of beds being established or added for each category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) Service Restrictions
The applicant shall document that at least one of the following factors exists in the planning area:

i) The absence of the proposed service within the planning area;

ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;

iii) Restrictive admission policies of existing providers;

iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;

v) For purposes of this subsection (b)(5) only, all services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

B) Supporting Documentation
The applicant shall provide the following documentation, as applicable, concerning existing restrictions to service access:

i) The location and utilization of other planning area service providers;

ii) Patient location information by zip code;

iii) Independent time-travel studies;

iv) A certification of waiting times;

v) Scheduling or admission restrictions that exist in area providers;

vi) An assessment of area population characteristics that document that access problems exist; and

vii) Most recently published IDPH Hospital Questionnaire.

c) Unnecessary Duplication/Maldistribution - Review Criterion

1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:

A) A list of all zip code areas that are located, in total or in part, within 30 minutes normal travel time of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois); and

C) The names and locations of all existing or approved health care facilities located within 30 minutes normal travel time from the project site that provide the categories of bed service that are proposed by the project.

2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, beds and services characterized by such factors as, but not limited to:

A) A ratio of beds to population that exceeds one and one-half times the State average;

B) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the occupancy standard established pursuant to 77 Ill. Adm. Code 1100; or

C) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above occupancy standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project:

A) Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and

B) Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.

d) Category of Service Modernization

1) If the project involves modernization of a category of hospital bed service, the applicant shall document that the inpatient bed areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized, due to such factors as, but not limited to:

A) High cost of maintenance;

B) Non-compliance with licensing or life safety codes;

C) Changes in standards of care (e.g., private versus multiple bedrooms); or

D) Additional space for diagnostic or therapeutic purposes.

2) Documentation shall include the most recent:

A) IDPH Centers for Medicare and Medicaid Services (CMMS) inspection reports; and

B) Joint Commission on Accreditation of Healthcare Organizations reports.

3) Other documentation shall include the following, as applicable to the factors cited in the application:

A) Copies of maintenance reports;

B) Copies of citations for life safety code violations; and

C) Other pertinent reports and data.

4) Projects involving the replacement or modernization of a category of service or hospital shall meet or exceed the occupancy standards for the categories of service, as specified in 77 Ill. Adm Code 1100.

e) Staffing Availability - Review Criterion

1) An applicant proposing to establish a new hospital or to add beds to an existing hospital shall document that a sufficient supply of personnel will be available to staff the total number of beds proposed. Sufficient staff availability shall be based upon evidence that, for the latest 12-month period prior to submission of the application, those hospitals located in zip code areas that are, in total or in part, within one hour normal travel time of the applicant facility's site have not experienced a staffing shortage with respect to the categories of service proposed by the project.

2) A staffing shortage is indicated by an average annual vacancy rate of more than 10% for budgeted full-time equivalent staff positions for health care

workers who are subject to licensing by the Department of Financial and Professional Regulation.

3) An applicant shall document that a written request for this information was received by all existing facilities within the zip code areas, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility has not experienced staffing vacancy rates in excess of 10%. Copies of any correspondence received from the facilities shall be included in the application.

4) If more than 25% of the facilities contacted indicated an experienced staffing vacancy rate of more than 10%, the applicant shall provide documentation as to how sufficient staff shall be obtained to operate the proposed project, in accordance with licensing requirements.

f) Performance Requirements

1) Bed Capacity Minimum

A) Medical-Surgical
The minimum bed capacity for a medical-surgical category of service within a Metropolitan Statistical Area (MSA) is 75 beds.

B) Obstetrics

i) The minimum unit size for a new obstetric unit within an MSA is 20 beds.

ii) The minimum unit size for a new obstetric unit outside an MSA is 7 beds.

C) Intensive Care: The minimum unit size for an intensive care unit is 4 beds.

D) Pediatrics: The minimum size for a pediatric unit within an MSA is 16 beds.

E) New Hospital: The minimum bed capacity for the establishment of a new acute care hospital within an MSA, except for federally designated critical access hospitals, is 75 beds.

2) Length of Stay

A) An applicant proposing to add beds to an existing acute care bed service (Med/Surg, OB, Pediatrics and ICU) shall document that the average length of stay (ALOS) for the subject service is consistent with the planning area's 3-year ALOS.

B) Documentation shall consist of the 3-year ALOS for all hospitals within the planning area, as reported in the Annual Hospital Questionnaire.

C) An applicant whose existing services have an ALOS exceeding 125% of the ALOS for area providers shall document that the severity or type of illness treated at the applicant facility is significantly higher than the planning area average. Documentation from CMMS or other objective records shall be provided.

D) An applicant whose existing services have an ALOS that is lower than the planning area ALOS shall submit an explanation as to the reasons for the divergence.

g) Assurances

The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the second year of operation after the project completion, the applicant will achieve and maintain the occupancy standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal.

~~a) Unit Size – Review Criterion~~

~~1) Obstetrics~~

~~A)~~ ~~The minimum unit size for a new obstetric unit within a Metropolitan Statistical Area is 20 beds.~~

~~B)~~ ~~The minimum unit size for a new obstetric unit outside a Metropolitan Statistical Area is 7 beds.~~

~~2)~~ ~~Intensive Care. The minimum unit size for an intensive care unit is 4 beds.~~

~~3)~~ ~~Pediatrics. The minimum size for a pediatric unit within a Metropolitan Statistical Area is 16 beds.~~

~~b)~~ ~~Variances to Bed Need – Review Criterion. The applicant must document one or more of the following.~~

~~1)~~ ~~High Occupancy Variance~~

~~A)~~ ~~The applicant must document that the applicant facility has experienced high occupancy. Documentation shall consist of evidence that the historical average annual occupancy rate has equaled or exceeded the target occupancy for the prior 24-month period.~~

~~B)~~ ~~The applicant must also document that the number of beds proposed will not exceed the number needed to reduce the facility's high occupancy to the target occupancy, or if the number of beds proposed exceeds the number of beds justified by the applicant's historical workload, then projections may be used. Utilization projections must be based upon the following:~~

~~i)~~ ~~projections shall be based upon population projections from the U.S. Bureau of the Census;~~

~~ii)~~ ~~projections shall be for a maximum period of 5 years from the date the application is submitted;~~

~~iii)~~ ~~projections shall be zip code and age-specific; and~~

~~iv) projections shall be based upon the applicant's service area as defined by historical patient origin, and shall not include projected changes in market share.~~

~~The projections provided must also demonstrate that the proposed number of beds will not exceed the number of beds needed to meet the target occupancy rate over the next 5 years.~~

~~2) Medically Underserved Variance~~

~~A) The applicant must document that access to the proposed service is restricted in the planning area as documented by:~~

~~i) the absence of the service within the planning area;~~

~~ii) limitations on governmentally funded or charity patients;~~

~~iii) restrictive admission policies of existing providers;~~

~~iv) the area population and existing care system exhibit indicators of median care problems such as an average family income level below the State average poverty level, high infant mortality or designation as a Health Manpower Shortage Area; or~~

~~v) the project will provide service for a portion of the population who must currently travel over 45 minutes to receive service.~~

~~B) Documentation shall consist of location and utilization of other planning area service providers; patient location information and all applicable time-travel studies; a certification of waiting times and scheduling or admission restrictions that exist in area providers; and an assessment of area population characteristics which would indicate an access problem.~~

~~C) The applicant must also document that the number of beds proposed will not exceed the number needed at the target~~

~~occupancy rate to meet the health care needs of the population identified as having restricted access.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART G: CATEGORY OF SERVICE REVIEW CRITERIA
– COMPREHENSIVE PHYSICAL REHABILITATION

Section 1110.610 Introduction (Repealed)

~~Subpart G contains Review Criteria which pertain to the Comprehensive Physical Rehabilitation category of service. These Review Criteria are utilized in addition to the "General Review Criteria" outlined in Subpart C and any other applicable Review Criteria outlined in Subparts D and E.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.620 Comprehensive Physical Rehabilitation--Definitions (Repealed)

~~a)~~ ~~"Comprehensive Physical Rehabilitation" means a category of service provided in a comprehensive physical rehabilitation facility providing the coordinated interdisciplinary team approach to physical disability under a physician licensed to practice medicine in all its branches, who directs a plan of management of one or more of the classes of chronic disabling disease or injury. Comprehensive physical rehabilitation must include but is not limited to the services of: elements as specified in the federal regulations defining "a rehabilitation unit - distinct part" (42 CFR 405.471(i) (1986)). Comprehensive physical rehabilitation services can only be provided by a comprehensive physical rehabilitation facility.~~

~~b)~~ ~~"Comprehensive Physical Rehabilitation Facility" means a distinct bed unit of a hospital or a special referral hospital which provides a program of comprehensive physical rehabilitation and which is designed, equipped, organized and operated to deliver inpatient rehabilitation services; and which is licensed by the Department of Public Health under the "Hospital Licensing Act" or is a facility operated or maintained by the State or a state agency.~~

~~c)~~ ~~There are two types of comprehensive physical rehabilitation facilities:~~

~~1) Freestanding comprehensive physical rehabilitation facility means a specialty hospital dedicated to the provision of comprehensive rehabilitation; and~~

~~2) Hospital/based comprehensive physical rehabilitation facility means a distinct unit, located in a hospital, dedicated to the provision of comprehensive physical rehabilitation.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.630 Comprehensive Physical Rehabilitation Beds - Review Criteria

a) Introduction

1) This Section applies to projects involving the Comprehensive Physical Rehabilitation (CPR) category of service. Applicants proposing to establish, expand or modernize CPR shall comply with the applicable subsections of this Section, as follows:

PROJECT TYPE	REQUIRED REVIEW CRITERIA	
Establishment of Services or Facility	(b)(1) -	Planning Area Need – 77 Ill. Adm. Code 1100 (formula calculation)
	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(3) -	Planning Area Need – Service Demand - Establishment of Bed Category of Service
	(b)(5) -	Planning Area Need - Service Accessibility
	(c)(1) -	Unnecessary Duplication of Services
	(c)(2) -	Maldistribution
	(c)(3) -	Impact of Project on Other Area Providers
	(e)(1) -	Staffing Availability
	(f) -	Performance Requirements
	(g) -	Assurances
Expansion of Existing Services	(b)(2) -	Planning Area Need – Service to Planning Area Residents

	(b)(4) -	Planning Area Need – Service Demand – Expansion of Bed Category of Service
	(e)(1) -	Staffing - Availability
	(f) -	Performance Requirements
	(g) -	Assurances
Category of Service Modernization	(d)(1) -	Deterioriated Facilities
	(d)(2) & (3) -	Documentation
	(d)(4) -	Occupancy
	(f) -	Performance Requirements

2) If the proposed project involves the replacement of a hospital or service on-site, the applicant shall comply with the requirements listed in subsection (a)(1) for "Category of Service Modernization" plus subsection (g) (Assurances).

3) If the proposed project involves the replacement of a hospital or service on a new site, the applicant shall comply with the requirements of subsection (a)(1) for "Establishment of Services or Facility".

4) If the proposed project involves the replacement of a hospital or service (on-site or new site), the number of beds being replaced shall not exceed the number justified by historical occupancy rates for each of the latest two years, unless additional beds can be justified per the criteria for "Expansion of Existing Services".

b) Planning Area Need - Review Criterion
The applicant shall document that the number of beds to be established or added is necessary to serve the planning area's population, based on the following:

1) 77 Ill. Adm. Code 1100 (formula calculation)

A) The number of beds to be established for each category of service is in conformance with the projected bed deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.

B) The number of beds proposed shall not exceed the number of the projected deficit, to meet the health care needs of the population

served, in compliance with the occupancy standard specified in 77 Ill. Adm. Code 1100.

2) Service to Planning Area Residents

A) Applicants proposing to establish or add beds shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.

B) Applicants proposing to add beds to an existing category of bed service shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the area. For all other projects, applicants shall document that at least 50% of the projected patient volume will be from residents of the area.

C) Applicants proposing to expand an existing category of hospital bed service shall submit patient origin information by zip code, based upon the patient's legal residence (other than a health care facility) for the last six months immediately prior to admission.

3) Service Demand – Establishment of Bed Category of Service
The number of beds proposed to establish a new category of hospital bed service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new hospital, the applicant shall submit projected referrals:

A) Historical Referrals
If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for each proposed category of hospital bed service, for each of the latest two years. Documentation of the referrals shall include: patient origin by zip code; name and specialty of referring physician; name and location of the recipient hospital.

B) Projected Referrals
An applicant proposing to establish a category of bed service or establish a new hospital shall submit the following:

i) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing facilities located in the area during the 12-month period prior to submission of the application;

ii) An estimated number of patients whom the physician will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's documented historical caseload;

iii) The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

4) Service Demand – Expansion of Bed Category of Service
The number of beds to be added for each category of service is necessary to reduce the facility's experienced high occupancy and to meet a projected demand for service. The applicant shall document subsection (b)(4)(A) and either subsection (b)(4)(B) or (C):

A) Historical Service Demand

i) An average annual occupancy rate that has equaled or exceeded occupancy standards for the category of service, as specified in 77 Ill. Adm. Code 1100, for each of the latest two years.

ii) If patients have been referred to other facilities in order to receive the subject services, the applicant shall provide

documentation of the referrals, including: patient origin by zip code; name and specialty of referring physician; and name and location of the recipient hospital, for each of the latest two years.

B) Projected Referrals
The applicant shall provide the following:

i) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing facilities located in the area during the 12-month period prior to submission of the application;

ii) An estimated number of patients the physician will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's experienced caseload. The percentage of project referrals used to justify the proposed expansion cannot exceed the historical percentage of applicant market share, within a 24-month period after project completion;

iii) The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

C) Projected Service Demand – Based on Rapid Population Growth
If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as experienced annually within the latest 24-month period), the projected service demand shall be determined as follows:

i) The applicant shall define the facility's market area based upon historical patient origin data by zip code or census tract;

ii) Population projections shall be produced, using, as a base, the population census or estimate for the most recent year, for county, incorporated place, township or community area, by the U.S. Census Bureau or IDPH;

iii) Projections shall be for a maximum period of 10 years from the date the application is submitted;

iv) Historical data used to calculate projections shall be for a number of years no less than the number of years projected;

v) Projections shall contain documentation of population changes in terms of births, deaths and net migration for a period of time equal to or in excess of the projection horizon;

vi) Projections shall be for total population and specified age groups for the applicant's market area, as defined by HFPB, for each category of service in the application; and

vii) Documentation on projection methodology, data sources, assumptions and special adjustments shall be submitted to HFPB.

5) Service Accessibility
The number of beds being established or added for each category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) Service Restrictions
The applicant shall document that at least one of the following factors exists in the planning area:

i) The absence of the proposed service within the planning area;

ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care

coverage through Medicare, Medicaid, managed care or charity care;

iii) Restrictive admission policies of existing providers;

iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;

v) For purposes of this subsection (b)(5) only, all services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

B) Supporting Documentation
The applicant shall provide the following documentation, as applicable, concerning existing restrictions to service access:

i) The location and utilization of other planning area service providers;

ii) Patient location information by zip code;

iii) Independent time-travel studies;

iv) A certification of waiting times;

v) Scheduling or admission restrictions that exist in area providers;

vi) An assessment of area population characteristics that document that access problems exist; and

vii) Most recently published IDPH Hospital Questionnaire.

c) Unnecessary Duplication/Maldistribution - Review Criterion

1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:

A) A list of all zip code areas that are located, in total or in part, within 30 minutes normal travel time of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and

C) The names and locations of all existing or approved health care facilities located within 30 minutes normal travel time from the project site that provide the categories of bed service that are proposed by the project.

2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, beds and services characterized by such factors as, but not limited to:

A) A ratio of beds to population that exceeds one and one-half times the State average;

B) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the occupancy standard established pursuant to 77 Ill. Adm. Code 1100; or

C) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above occupancy standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project:

A) Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and

B) Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.

d) Category of Service Modernization

1) If the project involves modernization of a category of hospital bed service, the applicant shall document that the inpatient bed areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized, due to such factors as, but not limited to:

A) High cost of maintenance;

B) Non-compliance with licensing or life safety codes;

C) Changes in standards of care (e.g., private versus multiple bed rooms); or

D) Additional space for diagnostic or therapeutic purposes.

2) Documentation shall include the most recent:

A) IDPH CMMS inspection reports; and

B) Joint Commission on Accreditation of Healthcare Organizations reports.

3) Other documentation shall include the following, as applicable to the factors cited in the application:

A) Copies of maintenance reports;

B) Copies of citations for life safety code violations; and

C) Other pertinent reports and data.

4) Projects involving the replacement or modernization of a category of service or hospital shall meet or exceed the occupancy standards for the categories of service, as specified in 77 Ill. Adm. Code 1100.

e) Staffing

1) Availability - Review Criterion

A) An applicant proposing to establish a new hospital or to add beds to an existing hospital shall document that a sufficient supply of personnel will be available to staff the total number of beds proposed. Sufficient staff availability shall be based upon evidence that, for the latest 12-month period prior to submission of the application, those hospitals located in zip code areas that are, in total or in part, within one hour normal travel time of the applicant facility's site have not experienced a staffing shortage with respect to the categories of service proposed by the project.

B) A staffing shortage is indicated by an average annual vacancy rate of more than 10% for budgeted full-time equivalent staff positions for health care workers who are subject to licensing by the Department of Financial and Professional Regulation.

C) An applicant shall document that a written request for this information was received by all existing facilities within the zip code areas, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility has not experienced staffing vacancy rates in excess of 10%. Copies of any correspondence received from the facilities shall be included in the application.

D) If more than 25% of the facilities contacted indicated an experienced staffing vacancy rate of more than 10%, the applicant shall provide documentation as to how sufficient staff shall be obtained to operate the proposed project, in accordance with licensing requirements.

2) Personnel Qualifications
The applicant shall document that personnel possessing proper credentials in the following categories are available to staff the service:

A) Medical Director – Medical direction of the facility shall be vested in a physician who is a doctor of medicine licensed to practice in all of its branches and who has had three years of post-graduate specialty training in the medical management of inpatients requiring rehabilitation services.

B) Rehabilitation Nursing – Supervisors, for all nurses participating as part of the rehabilitation team, must be available on staff and shall have documented education in rehabilitation nursing and at least one year of rehabilitation nursing experience.

C) Allied Health – The following allied health specialists shall be available on staff:

i) Physical Therapist – Graduate of a program in physical therapy approved by the American Physical Therapy Association is licensed to practice in the State of Illinois.

ii) Occupational Therapist – Registered by the American Occupational Therapy Association or graduate of an approved educational program, with the experience needed for registration. Educational programs are approved by the American Medical Association's Council on Medical Education in collaboration with the American Occupational Therapy Association. The therapist shall be licensed to practice in the State of Illinois.

iii) Social Worker.

D) Other Specialties – The following personnel shall be available on staff or on a consulting basis:

i) Speech Pathologist;

ii) Psychologist;

iii) Vocational Counselor or Specialist;

iv) Dietitian;

v) Pharmacist;

vi) Audiologist; and

vii) Prosthetist and Orthotist.

E) Documentation shall consist of:

i) Medical Director
Curriculum Vitae of Medical Director

ii) Other Personnel

- Letters of interest from potential employees
- Applications filed with the applicant for a position
- Signed contracts with required staff
- Narrative explanation of how other positions will be filled

f) Performance Requirements

1) Bed Capacity Minimum

A) The minimum freestanding facility size for comprehensive physical rehabilitation is a minimum facility capacity of 100 beds.

B) The minimum hospital unit size for comprehensive physical rehabilitation is 16 beds.

2) Length of Stay

A) An applicant proposing to add beds to an existing freestanding comprehensive rehabilitation facility or an existing comprehensive rehabilitation unit shall document that the average length of stay (ALOS) for the subject service is consistent with the planning area's three-year ALOS.

B) Documentation shall consist of the three-year ALOS for all hospitals within the planning area, as reported in the Annual Hospital Questionnaire.

C) An applicant whose existing services have an ALOS exceeding 125% of the ALOS for area providers shall document that the severity or type of illness treated at the applicant facility is significantly higher than the planning area average. Documentation shall be provided from CMMS or other objective records.

D) An applicant whose existing services have an ALOS that is lower than the planning area ALOS shall submit an explanation as to the reasons for the divergence.

g) Assurances
The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the second year of operation after the project completion, the applicant will achieve and maintain the occupancy standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal.

~~a) Facility Size – Review Criterion~~

~~1) The minimum freestanding facility size for comprehensive physical rehabilitation is a minimum facility capacity of 100 beds.~~

~~2) The minimum hospital unit size for comprehensive physical rehabilitation is 15 beds.~~

~~b) Access Variance to Bed Need – Review Criterion~~

~~1) The applicant must document that access to the proposed service is restricted in the planning area as documented by:~~

~~A) the absence of the service within the planning area;~~

~~B) limitations on governmentally funded or charity patients;~~

~~C) restrictive admission policies of existing providers; or~~

~~D) the project will provide service for a portion of the population who must currently travel over 45 minutes to receive service.~~

~~2) The applicant must also document that the number of beds proposed will not exceed the number needed to meet the health care needs of the population identified as having restricted access at the target occupancy rate.~~

~~c) Staffing Requirements – Review Criterion~~

~~1) The applicant must document that personnel possessing proper credentials in the following categories are available to staff the service:~~

~~A) Medical Director – Medical direction of the facility shall be vested in a physician who is a doctor of medicine licensed to practice in all of its branches and who has had three year of post-graduate specialty training in the medical management of inpatients requiring rehabilitation services.~~

~~B) Rehabilitation Nursing – Supervisors, for all nurses participating as part of the rehabilitation team, must be available on staff and shall have documented education in rehabilitation nursing and at least one year of rehabilitation nursing experience.~~

~~C) Allied Health – The following allied health specialists must be available on staff:~~

~~i) Physical Therapist – Graduate of a program in physical therapy approved by the American Physical Therapy Association.~~

ii) Occupational Therapist – Registered by the American Occupational Therapy Association or graduate of an approved educational program, with the experience needed for registration. Educational programs are approved by the American Medical Association's council on Medical Education in collaboration with the American Occupational Therapy Association.

iii) Social Worker

D) Other Specialties – The following personnel must be available on staff or on a consulting basis:

i) Speech Pathologist;

ii) Psychologist;

iii) Vocational Counselor or Specialist;

iv) Dietician;

v) Pharmacist;

vi) Audiologist;

vii) Prosthetist and Orthotist; and

viii) Dentist.

2) Documentation shall consist of:

A) letters of interest from potential employees;

B) applications filed with the applicant for a position;

C) signed contracts with required staff; or

D) a narrative explanation of how other positions will be filled.

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART H: CATEGORY OF SERVICE REVIEW CRITERIA – ACUTE MENTAL ILLNESS AND CHRONIC MENTAL ILLNESS

Section 1110.710 Introduction (Repealed)

~~Subpart H contains Review Criteria which pertain to the Acute Mental Illness category of service. These Review Criteria are utilized in addition to the "General Review Criteria" outlined in Subpart C and any other applicable Review Criteria outlined in Subparts D and E.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.720 Acute Mental Illness – Definitions (Repealed)

~~"Acute Mental Illness" means a crisis state or an acute phase of one of more specific psychiatric disorders in which a person displays one or more specific psychiatric symptoms of such severity as to prohibit effective functioning in any community setting. Persons who are acutely mentally ill may be admitted to an acute mental illness facility or unit under the provisions of the Mental Health and Developmental Disabilities Code [405 ILCS 5] which determines the specific requirements for admission by age and type of admission.~~

~~"Acute Mental Illness Facility or Unit" means a facility or a distinct unit in a facility which provides a program of acute mental illness treatment service (as defined below) and which is designed, equipped, organized, and operated to deliver inpatient and supportive acute mental illness treatment services; and which is licensed by the Department of Public Health under the Hospital Licensing Act [210 ILCS 85] or is a facility operated or maintained by the State or a State agency.~~

~~"Acute Mental Illness Treatment Service" means a category of service which provides a program of care for those persons suffering from acute mental illness. Such services are provided in a highly structured setting in a distinct psychiatric unit of a general hospital, in a private psychiatric hospital, or in a state-operated facility, to individuals who are severely mentally ill and in a state of acute crisis, in an effort to stabilize the individual and either effect his quick placement in a less restrictive setting or to reach a determination that extended treatment is~~

~~needed. Acute mental illness is typified by an average length of stay of 45 days or less for adults and 60 days or less for children and adolescents.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.730 Acute Mental Illness – Review Criteria

a) Introduction

1) This Section applies to projects involving Acute Mental Illness (AMI) and Chronic Mental Illness (CMI). Applicants proposing to establish, expand or modernize AMI and CMI categories of service shall comply with the applicable subsections of this Section, as follows:

PROJECT TYPE	REQUIRED REVIEW CRITERIA	
Establishment of Services or Facility	(b)(1) -	Planning Area Need – 77 Ill. Adm. Code 1100 (formula calculation)
	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(3) -	Planning Area Need – Service Demand - Establishment of Bed Category of Service
	(b)(5) -	Planning Area Need - Service Accessibility
	(c)(1) -	Unnecessary Duplication of Services
	(c)(2) -	Maldistribution
	(c)(3) -	Impact of Project on Other Area Providers
	(e) -	Staffing Availability
	(f) -	Performance Requirements
	(g) -	Assurances
Expansion of Existing Services	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(4) -	Planning Area Need – Service Demand – Expansion of Bed Category of Service
	(e) -	Staffing Availability
	(f) -	Performance Requirements

	(g) -	Assurances
Category of Service Modernization	(d)(1) -	Deterioriated Facilities
	(d)(2) & (3) -	Documentation
	(d)(4) -	Occupancy
	(f) -	Performance Requirements

2) If the proposed project involves the replacement of a hospital or service onsite, the applicant shall comply with the requirements listed in subsection (a)(1) for "Category of Service Modernization" plus subsection (g) (Assurances).

3) If the proposed project involves the replacement of a hospital or service offsite, the applicant shall comply with the requirements of subsection (a)(1) for "Establishment of Services or Facility".

4) If the proposed project involves the replacement of a hospital or service (onsite or new site), the number of beds being replaced shall not exceed the number justified by historical occupancy rates for each of the latest two years, unless additional beds can be justified per the criteria for "Expansion of Existing Services".

b) Planning Area Need - Review Criterion
The applicant shall document that the number of beds to be established or added is necessary to serve the planning area's population, based on the following:

1) 77 Ill. Adm. Code 1100 (formula calculation)

A) The number of beds to be established for each category of service is in conformance with the projected bed deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.

B) The number of beds proposed shall not exceed the number of the projected deficit, to meet the health care needs of the population served, in compliance with the occupancy standard specified in 77 Ill. Adm. Code 1100.

2) Service to Planning Area Residents

A) Applicants proposing to establish or add beds shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.

B) Applicants proposing to add beds to an existing category of bed service shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the area. For all other projects, applicants shall document that at least 50% of the projected patient volume will be from residents of the area.

C) Applicants proposing to expand an existing category of hospital bed service shall submit patient origin information by zip code, based upon the patient's legal residence (other than a health care facility), for the last six months immediately prior to admission.

3) Service Demand – Establishment of Bed Category of Service
The number of beds proposed to establish a new category of hospital bed service is necessary to accommodate the service demand experienced by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new hospital, the applicant shall submit projected referrals.

A) Historical Referrals
If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for each proposed category of hospital bed service, for each of the latest two years. Documentation of the referrals shall include: patient origin by zip code; name and specialty of referring physician; name and location of the recipient hospital.

B) Projected Referrals
An applicant proposing to establish a new bed category of service or establish a new hospital shall submit the following:

i) Physician referral and/or DHS-funded mental health provider (59 Ill. Adm. Code 132) letters that attest to the total number of patients (by zip code of residence) who have received care at existing facilities located in the area during the 12-month period prior to submission of the application;

ii) An estimated number of patients the physician and/or DHS-funded mental health provider will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's and/or mental health provider's documented historical caseload;

iii) The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

C) Patient Type
The applicant shall identify the type of patients that will be served by the project by providing the clinical conditions anticipated (e.g., eating disorder, borderline personality disorder, dementia) and age groups (e.g., childhood, adolescent, geriatric) targeted.

4) Service Demand – Expansion of Bed Category of Service
The number of beds to be added for each category of service is necessary to reduce the facility's experienced high occupancy and to meet a projected demand for service. The applicant shall document subsection (b)(4)(A) and either subsection (b)(4)(B) or (C):

A) Historical Service Demand

i) An average annual occupancy rate that has equaled or exceeded occupancy standards for the category of service,

as specified in 77 Ill. Adm. Code 1100, for each of the latest two years.

ii) If patients have been referred to other facilities in order to receive the subject services, the applicant shall provide documentation of the referrals, including: patient origin by zip code; name and specialty of referring physician; and name and location of the recipient hospital, for each of the latest two years.

B) Projected Referrals
The applicant shall provide the following:

i) physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing facilities located in the area during the 12-month period prior to submission of the application;

ii) an estimated number of patients the physician will refer to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's documented historical caseload. The percentage of project referrals used to justify the proposed expansion cannot exceed the historical percentage of applicant market share, within a 24-month period after project completion;

iii) The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

C) Projected Service Demand – Based on Rapid Population Growth
If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as

experienced within the latest 24-month period), the projected service demand shall be determined as follows:

i) The applicant shall define the facility's market area based upon historical patient origin data by zip code or census tract;

ii) Population projections shall be produced, using, as a base, the population census or estimate for the most recent year, for county, incorporated place, township or community area, by the U.S. Census Bureau or IDPH;

iii) Projections shall be for a maximum period of 10 years from the date the application is submitted;

iv) Historical data used to calculate projections shall be for a number of years no less than the number of years projected;

v) Projections shall contain documentation of population changes in terms of births, deaths and net migration for a period of time equal to or in excess of the projection horizon;

vi) Projections shall be for total population and specified age groups for the applicant's market area, as defined by HFPB, for each category of service in the application; and

vii) Documentation on projection methodology, data sources, assumptions and special adjustments shall be submitted to HFPB.

5) Service Accessibility
The number of beds being established or added for each category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) Service Restrictions

The applicant shall document that at least one of the following factors exists in the planning area:

i) The absence of the proposed service within the planning area;

ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;

iii) Restrictive admission policies of existing providers;

iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;

v) For purposes of this subsection (b)(5) only, all services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

B) Supporting Documentation
The applicant shall provide the following documentation, as applicable, concerning existing restrictions to service access:

i) The location and utilization of other planning area service providers;

ii) Patient location information by zip code;

iii) Independent time-travel studies;

iv) A certification of waiting times;

v) Scheduling or admission restrictions that exist in area

providers;

vi) An assessment of area population characteristics that document that access problems exist;

vii) Most recently published IDPH Hospital Questionnaire.

c) Unnecessary Duplication/Maldistribution - Review Criterion

1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:

A) A list of all zip code areas that are located, in total or in part, within 30 minutes normal travel time of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and

C) The names and locations of all existing or approved health care facilities located within 30 minutes normal travel time from the project site that provide the categories of bed service that are proposed by the project.

2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, bed and services characterized by such factors as, but not limited to:

A) A ratio of beds to population that exceeds one and one-half times the State average;

B) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the occupancy standard established pursuant to 77 Ill. Adm. Code 1100; or

C) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above occupancy standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project:

A) Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and

B) Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.

d) Category of Service Modernization

1) If the project involves modernization of a category of hospital bed service, the applicant shall document that the inpatient bed areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized, due to such factors as, but not limited to:

A) High cost of maintenance;

B) Non-compliance with licensing or life safety codes;

C) Changes in standards of care (e.g., private versus multiple bed rooms); or

D) Additional space for diagnostic or therapeutic purposes.

2) Documentation shall include the most recent:

A) IDPH CMMS inspection reports; and

B) Joint Commission on Accreditation of Healthcare Organizations reports.

3) Other documentation shall include the following, as applicable to the factors cited in the application:

A) Copies of maintenance reports;

B) Copies of citations for life safety code violations; and

C) Other pertinent reports and data.

4) Projects involving the replacement or modernization of a category of service or hospital shall meet or exceed the occupancy standards for the categories of service, as specified in 77 Ill. Adm. Code 1100.

e) Staffing Availability - Review Criterion

1) An applicant proposing to establish a new hospital or to add beds to an existing hospital shall document that a sufficient supply of personnel will be available to staff the total number of beds proposed. Sufficient staff availability shall be based upon evidence that, for the latest 12-month period prior to submission of the application, those hospitals located in zip code areas that are, in total or in part, within one hour normal travel time of the applicant facility's site have not experienced a staffing shortage with respect to the categories of service proposed by the project.

2) A staffing shortage is indicated by an average annual vacancy rate of more than 10% for budgeted full-time equivalent staff positions for health care workers who are subject to licensing by the Department of Financial and Professional Regulation.

3) An applicant shall document that a written request for this information was received by all existing facilities within the zip code areas, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility has not experienced staffing vacancy rates in excess of 10%. Copies of any correspondence received from the facilities shall be included in the application.

4) If more than 25% of the facilities contacted indicated an experienced staffing vacancy rate of more than 10%, the applicant shall provide

documentation as to how sufficient staff shall be obtained to operate the proposed project, in accordance with licensing requirements.

f) Performance Requirements

1) Bed Capacity Minimum

A) The minimum unit size for a new AMI unit within an MSA is 20 beds.

B) The minimum unit size for a new AMI unit outside an MSA is 10 beds.

2) Length of Stay

A) An applicant proposing to add beds to an existing bed service shall document that the average length of stay (ALOS) for the subject service is consistent with the planning area's three-year ALOS .

B) Documentation shall consist of the three-year ALOS for all hospitals within the planning area, as reported in the Annual Hospital Questionnaire.

C) An applicant whose existing services have an ALOS exceeding 125% of the ALOS for area providers shall document that the severity or type of illness treated at the applicant facility is significantly higher than the planning area average. Documentation shall be provided from CMS or other objective records.

D) An applicant whose existing services have an ALOS lower than the planning area ALOS shall submit an explanation as to the reasons for the divergence.

g) Assurances
The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the second year of operation after the project completion, the applicant will achieve and

maintain the occupancy standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal.

~~a) Unit Size – Review Criterion. The minimum unit size for acute mental illness beds is 20 beds for facilities within a metropolitan statistical area. The minimum unit size for acute mental illness beds is 10 beds for facilities within nonmetropolitan statistical areas.~~

~~b) Supportive Mental Health Services – Review Criterion. The applicant must document that the proposed project is or will be a component of an integrated community mental health system, as indicated by the existence of formal multi-institutional service agreements with non-hospital providers. The formal agreements must include:~~

~~1) A specific process for linking of patients to needed aftercare services;~~

~~2) A specific process for the exchange of information concerning the patient; and~~

~~3) Designated staff members or points of contact between the facilities and/or professionals.~~

~~c) Variance to Bed Need – Review Criterion~~

~~1) High Occupancy – The applicant must document that the number of beds proposed will not exceed the number needed to reduce the facility's high occupancy to the target occupancy.~~

~~2) Access – The applicant must document that the proposed project will be providing the acute mental illness category of service that is not readily accessible to the general population of the given planning area. Factors affecting accessibility include, but are not limited to:~~

~~A) Restrictive admission policies by facilities currently providing the service in the area; and/or~~

~~B) Location of existing services requires an excessive amount of travel time (more than 45 minutes under normal driving conditions) for planning area residents to receive service.~~

~~In addition, the applicant must provide documentation that the proposed project will achieve, within the first year of operation, the target occupancy for the service and that there is an available number of patients needing the facility's services to meet this level.~~

~~Type of Admissions – Review Criterion. The applicant must document that the acute mental illness service will annually achieve the target occupancy beginning in the second year of operation. Documentation shall consist of statistical evidence that there is an available number of patients suffering from psychiatric disorders as referenced in the Diagnostic and Statistical Manual of Mental Disorders, IV Edition (1980), DMS-111, American Psychiatric Association, which would utilize the acute mental illness service.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART O: CATEGORY OF SERVICE REVIEW CRITERIA – IN-CENTER HEMODIALYSIS~~CHRONIC RENAL DIALYSIS~~

Section 1110.1410 Introduction (Repealed)

~~Subpart O contains Review Criteria which pertain to the Chronic Renal Dialysis category of service. These Review Criteria are utilized in addition to the "General Review Criteria" outlined in Subpart C and any other applicable Review Criteria outlined in Subparts D and E.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.1420 Chronic Renal Dialysis Service – Definitions (Repealed)

~~"Acute Dialysis" is dialysis given on an intensive care, inpatient basis to patients suffering from (presumably reversible) acute renal failure, or to patients with chronic renal failure with serious complications.~~

~~"Chronic Renal Dialysis" is a category of service in which dialysis is performed on a regular long-term basis in patients with chronic irreversible renal failure. The maintenance and preparation of patients for kidney transplantation (including the immediate post-operative period and in case of organ rejection) or other acute~~

~~conditions within a hospital does not constitute a chronic renal dialysis category of service.~~

~~"Dialysis" is a process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semipermeable membrane. The two types of dialysis which are recognized in classical practice are hemodialysis and peritoneal dialysis.~~

~~"Hematocrit" means a measure of the packed cell volume of red blood cells expressed as a percentage of total blood volume.~~

~~"Hemodialysis" is a type of dialysis that involves the use of artificial kidney through which blood is circulated on one side of a semipermeable membrane while the other side is bathed by a salt dialysis solution. The accumulated toxic products diffuse out of the blood into the dialysate bath solution. The concentration and total amount of water and salt in the body fluid is adjusted by appropriate alternations in composition of the dialysate fluid.~~

~~"Peritoneal Dialysis" is a type of dialysis in which the dialysate fluid is injected slowly into the peritoneum, causing dialysis of water and waste products to occur through the peritoneal sac which acts as a semipermeable membrane. The fluid and waste, after accumulating for a period of time (1 hour), is drained from the abdomen and the process is repeated. This procedure is much slower than hemodialysis, requiring the patient to be immobilized for a long period of time.~~

~~"Renal Dialysis Facility" means a freestanding facility or a unit within an existing health care facility that furnishes routine chronic dialysis service(s) to chronic renal disease patients. Such types of services are: self-dialysis, training in self-dialysis, dialysis performed by trained professional staff and chronic maintenance dialysis including peritoneal dialysis.~~

~~"Self-Care Dialysis Training" is a program which trains Chronic Renal Disease patients or their helpers, or both, to perform self-care dialysis.~~

~~"Self-Dialysis" or "Self-Care Dialysis" is maintenance dialysis performed by a trained patient at home or in a special facility with or without the assistance of a family member or other helper.~~

~~"Urea" means the chief product of urine and the final product of protein metabolism in the body.~~

~~"Urea Reduction Ratio (URR)" means the amount of blood cleared of urea during dialysis. It is reflected by the ratio of the measured level of urea before dialysis and urea remaining after dialysis. The larger the URR, the greater the amount of urea removed during the dialysis treatment.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.1430 In-Center Hemodialysis Projects~~Chronic Renal Dialysis~~ – Review Criteria

a) Introduction

1) This Section applies to projects involving the In-Center Hemodialysis category of service. Applicants proposing to establish, expand or modernize a category of service shall comply with the applicable subsections of this Section as follows:

PROJECT TYPE	REQUIRED REVIEW CRITERIA	
Establishment of Services or Facility	(b)(1) -	Planning Area Need – 77 Ill. Adm. Code 1100 (formula calculation)
	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(3) -	Planning Area Need – Service Demand - Establishment of Station Category of Service
	(b)(5) -	Planning Area Need - Service Accessibility
	(c)(1) -	Unnecessary Duplication of Services
	(c)(2) -	Maldistribution
	(c)(3) -	Impact of Project on Other Area Providers
	(e) -	Staffing
	(f) -	Support Services
	(g) -	Minimum Number of Stations
	(h) -	Continuity of Care

	(j) -	Assurances
Expansion of Existing Services	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(4) -	Planning Area Need – Service Demand – Expansion of Stations Category of Service
	(e)(1) -	Staffing - Availability
	(f) -	Support Services
	(j) -	Assurances
Category of Service Modernization	(d)(1) -	Deterioriated Facilities
	(d)(2) & (3) -	Documentation
	(f) -	Support Services

2) If the proposed project involves the relocation of an existing facility or service, the applicant shall comply with the requirements listed in subsection (a)(1) for "Establishment of Services or Facility", as well as requirements in Section 1110.130 (Discontinuation) and subsection (i) (Relocation of Facilities).

3) If the proposed project involves the replacement of a facility or service (onsite or new site), the number of stations being replaced shall not exceed the number justified by historical utilization rates for each of the latest two years, unless additional stations can be justified per the criteria for "Expansion of Existing Services".

b) Planning Area Need - Review Criterion
The applicant shall document that the number of stations to be established or added is necessary to serve the planning area's population, based on the following:

1) 77 Ill. Adm. Code 1100 (formula calculation)

A) The number of stations to be established for each category of service is in conformance with the projected station deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.

B) The number of stations proposed shall not exceed the number of the projected deficit, to meet the health care needs of the

population served, in compliance with the utilization standard specified in 77 Ill. Adm. Code 1100.

2) Service to Planning Area Residents

A) Applicants proposing to establish or add stations shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.

B) Applicants proposing to add stations to an existing category of service shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the area. For all other projects, applicants shall document that at least 50% of the projected patient volume will be from residents of the area.

C) Applicants proposing to expand an existing category of service shall submit patient origin information by zip code, based upon the patient's legal residence (other than a health care facility), for the last six months immediately prior to admission.

3) Service Demand – Establishment of Station Category of Service
The number of stations proposed to establish a new category of service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new facility, the applicant shall submit projected referrals:

A) Historical Referrals

i) If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for each proposed category of service, for each of the latest two years.

ii) Documentation of the referrals shall include: patient origin by zip code; name and specialty of referring physician; name and location of the recipient facility.

B) Projected Referrals
An applicant proposing to establish a category of service or establish a new hospital, shall submit the following:

i) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing facilities located in the area during the 12-month period prior to submission of the application;

ii) An estimated number of patients the physician will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's documented historical caseload;

iii) The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

4) Service Demand – Expansion of Stations Category of Service
The number of stations to be added for each category of service is necessary to reduce the facility's experienced high utilization and to meet a projected demand for service. The applicant shall document subsection (b)(4)(A) and either (b)(4)(B) or (C):

A) Historical Service Demand

i) An average annual utilization rate that has equaled or exceeded utilization standards for the category of service, as specified in 77 Ill. Adm. Code 1100, for each of the latest two years.

ii) If patients have been referred to other facilities in order to receive the subject service, the applicant shall provide documentation of the referrals, including: patient origin by zip code; name and specialty of referring physician; and name and location of the recipient facility, for each of the latest two years.

B) Projected Referrals
The applicant shall provide the following:

i) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing facilities located in the area during the 12-month period prior to submission of the application;

ii) An estimated number of patients the physician will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's documented historical caseload. The percentage of project referrals used to justify the proposed expansion cannot exceed the historical percentage of applicant market share, within a 24-month period after project completion;

iii) Each referral letter shall contain the physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

C) Projected Service Demand – Based on Rapid Population Growth
If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as experienced annually within the latest 24-month period), the projected service demand shall be determined as follows:

i) The applicant shall define the facility's market area based upon historical patient origin data by zip code or census tract;

ii) Population projections shall be produced, using, as a base, the population census or estimate for the most recent year, for county, incorporated place, township or community area, by the U.S. Census Bureau or IDPH;

iii) Projections shall be for a maximum period of 10 years from the date the application is submitted;

iv) Historical data used to calculate projections shall be for a number of years no less than the number of years projected;

v) Projections shall contain documentation of population changes in terms of births, deaths and net migration for a period of time equal to or in excess of the projection horizon;

vi) Projections shall be for total population and specified age groups for the applicant's market area, as defined by HFPB, for each category of service in the application; and

vii) Documentation on projection methodology, data sources, assumptions and special adjustments shall be submitted to HFPB.

5) Service Accessibility
The number of stations being established or added for the subject category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) Service Restrictions
The applicant shall document that at least one of the following factors exists in the planning area:

i) The absence of the proposed service within the planning area;

ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;

iii) Restrictive admission policies of existing providers;

iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;

v) For purposes of this subsection (b)(5) only, all services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

B) Supporting Documentation
The applicant shall provide the following documentation concerning existing restrictions to service access:

i) The location and utilization of other planning area service providers;

ii) Patient location information by zip code;

iii) Independent time-travel studies;

iv) A certification of waiting times;

v) Scheduling or admission restrictions that exist in area providers;

vi) An assessment of area population characteristics that document that access problems exist;

vii) Most recently published IDPH Hospital Questionnaire.

c) Unnecessary Duplication/Maldistribution - Review Criterion

1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:

A) A list of all zip code areas that are located, in total or in part, within 30 minutes normal travel time of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and

C) The names and locations of all existing or approved health care facilities located within 30 minutes normal travel time from the project site that provide the categories of station service that are proposed by the project.

2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, stations and services characterized by such factors as, but not limited to:

A) A ratio of stations to population that exceeds one and one-half times the State average;

B) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the utilization standard established pursuant to 77 Ill. Adm. Code 1100; or

C) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above utilization standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project:

A) Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and

B) Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.

d) Category of Service Modernization

1) If the project involves modernization of a category of service, the applicant shall document that the areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized, due to such factors as, but not limited to:

A) High cost of maintenance;

B) Non-compliance with licensing or life safety codes;

C) Changes in standards of care (e.g., private versus multiple bed rooms); or

D) Additional space for diagnostic or therapeutic purposes.

2) Documentation shall include the most recent:

A) IDPH CMMS inspection reports; and

B) Joint Commission on Accreditation of Healthcare Organizations reports.

3) Other documentation shall include the following, as applicable to the factors cited in the application:

A) Copies of maintenance reports;

B) Copies of citations for life safety code violations; and

C) Other pertinent reports and data.

4) Projects involving the relocation or modernization of a category of service or facility shall meet or exceed the utilization standards for the categories of service, as specified in 77 Ill. Adm. Code 1100.

e) Staffing

1) Availability

A) An applicant proposing to establish a new facility or to add beds to an existing facility shall document that a sufficient supply of personnel will be available to staff the total number of stations proposed. Sufficient staff availability shall be based upon evidence that, for the latest 12-month period prior to submission of the application, those hospitals located in zip code areas that are, in total or in part, within one hour normal travel time of the applicant facility's site have not experienced a staffing shortage with respect to the categories of service proposed by the project.

B) A staffing shortage is indicated by an average annual vacancy rate of more than 10% for budgeted full-time equivalent staff positions for health care workers who are subject to licensing by the Department of Financial and Professional Regulation.

C) An applicant shall document that a written request for this information was received by all existing facilities within the zip code areas, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility has not experienced staffing vacancy rates in excess of 10%. Copies of any correspondence received from the facilities shall be included in the application.

D) If more than 25% of the facilities contacted indicated an experienced staffing vacancy rate of more than 10%, the applicant shall provide documentation as to how sufficient staff shall be

obtained to operate the proposed project, in accordance with licensing requirements.

2) Qualifications

A) Medical Director – Medical direction of the facility shall be vested in a physician who has completed a board-approved training program in nephrology and has at least 12 months experience providing care to patients receiving dialysis.

B) Registered Nurse – The nurse responsible for nursing services in the unit shall be a registered nurse (RN) who meets the practice requirements of the State of Illinois and has at least 12 months experience in providing nursing care to patients on maintenance dialysis.

C) Dialysis Technician – This individual shall meet all applicable State of Illinois requirements (see 210 ILCS 62, the End Stage Renal Disease Facility Act). In addition, the applicant shall document its requirements for training and continuing education.

D) Dietitian – This individual shall be a registered dietitian with the Commission on Dietetic Registration, meet the practice requirements of the State of Illinois (see the Dietetic and Nutrition Services Practice Act [225 ILCS 30]) and have a minimum of one year of professional work experience in clinical nutrition as a registered dietitian.

E) Social Worker – The individual responsible for social services shall have a Master's of Social Work and meet the State of Illinois requirements (see 225 ILCS 20, the Clinical Social Work and Social Work Practice Act).

3) Documentation shall consist of:

A) Medical Director
Curriculum vitae of Medical Director, including a list of all in-center hemodialysis facilities where the position of Medical Director is held.

B) All Other Personnel

i) Letters of interest from potential employees;

ii) Applications filed with the applicant for a position;

iii) Signed contracts with required staff; or

iv) A narrative explanation of how other positions will be filled.

4) Training
The applicant proposing to establish an in-center hemodialysis category of service shall document that an ongoing program of training in dialysis techniques for nurses and technicians will be provided at the facility.

5) Staffing Plan
The applicant proposing to establish an in-center hemodialysis category of service shall document that at least one RN will be on duty when the unit is in operation and will maintain a ratio of at least one direct patient care provider to every four patients.

6) Medical Staff
The applicant shall provide a letter certifying whether the facility will or will not maintain an open medical staff.

f) Support Services – Review Criterion
An applicant proposing to establish an in-center hemodialysis category of service must submit a certification from an authorized representative that attests to each of the following:

1) Participation in a dialysis data system;

2) Availability of support services consisting of clinical laboratory service, blood bank, nutrition, rehabilitation, psychiatric and social services; and

3) Provision of training for self-care dialysis, self-care instruction, home and home-assisted dialysis, and home training provided at the proposed

facility, or the existence of a signed, written agreement for provision of these services with another facility.

g) Minimum Number of Stations
The minimum number of in-center hemodialysis stations for an End Stage Renal Disease (ESRD) facility is:

1) Four dialysis stations for facilities outside an MSA;

2) Eight dialysis stations for a facility within an MSA.

h) Continuity of Care
An applicant proposing to establish an in-center hemodialysis category of service shall document that a signed, written affiliation agreement or arrangement is in effect for the provision of inpatient care and other hospital services. Documentation shall consist of copies of all such agreements.

i) Relocation of Facilities – Review Criterion
This criterion may only be used to justify the relocation of a facility from one location in the planning area to another in the same planning area and may not be used to justify any additional stations. A request for relocation of a facility requires the discontinuation of the current category of service at the existing site and the establishment of a new category of service at the proposed location. The applicant shall document the following:

1) That the existing facility has met the utilization targets detailed in 77 Ill. Adm. Code 1100.630 for the latest 12-month period for which data is available; and

2) That the proposed facility will improve access for care to the existing patient population.

j) Assurances
The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the second year of operation after the project completion, the applicant will achieve and maintain the utilization standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal.

~~a)~~ ~~Data System – Review Criterion. An applicant proposing to establish a renal dialysis facility must document that a chronic renal dialysis data system exists or will be established. This criterion shall not be applicable to existing renal dialysis facilities that are relocating or adding stations.~~

~~b)~~ ~~Minimum Size of Renal Dialysis Center or Renal Dialysis Facilities – Review Criterion. The minimum facility size for establishment of a renal dialysis facility is:~~

~~1)~~ ~~three dialysis stations within the facility in areas not included in an MSA or in an MSA of less than 500,000 people;~~

~~2)~~ ~~six dialysis stations in MSA's of over 500,000 population.~~

~~c)~~ ~~Variance to Station Need – Review Criterion~~
~~An applicant proposing to establish a renal dialysis facility or to add stations when no need for additional stations exists in the planning area must document one of the following:~~

~~1)~~ ~~a new facility will improve access in a geographic area that is within 30 minutes travel time of the proposed facility site as evidenced by documentation that verifies:~~

~~A)~~ ~~all existing renal dialysis facilities in the area are operating at or in excess of the target utilization level for the latest 12 month period for which data is available; and~~

~~B)~~ ~~a sufficient number of patients is experiencing an access problem to justify the proposed number of stations at the minimum utilization level detailed in 77 Ill. Adm. Code 1100; and~~

~~C)~~ ~~the caseload at all existing renal dialysis facilities in the area will not be adversely affected; or~~

~~2)~~ ~~additional stations are needed to reduce high utilization of an existing facility as evidenced by documentation that verifies that the number of proposed stations will reduce the facility's experienced utilization level for the latest 12 month period for which data is available to the minimum utilization level detailed in 77 Ill. Adm. Code 1100.~~

~~d) Support Services – Review Criterion. The applicant proposing to establish a renal dialysis facility must document that clinical and pathological laboratory services, blood bank, nutrition, rehabilitation, psychiatric and social services, and self-care dialysis support services, will be available. Documentation shall consist of a narrative as to how such services will be provided. This criterion shall not be applicable to existing renal dialysis facilities that are relocating or adding stations.~~

~~e) Affiliation Agreements – Review Criterion. The applicant proposing to establish a renal dialysis facility must document that a written affiliation agreement or arrangement is in effect for the provision of inpatient care and other hospital services. Documentation shall consist of copies of all such agreements. This criterion shall not be applicable to existing renal dialysis facilities that are relocating or adding stations.~~

~~f) Self-Care and Home Dialysis Training – Review Criterion. The applicant proposing to establish a renal dialysis facility must document that self-care dialysis, self-care instruction, home dialysis and home training will be provided at the applicant facility or that a written agreement with another facility for the provision of these services exists. Documentation shall consist of a certification that services are provided by the applicant or copies of all agreements for provision of such services. This criterion shall not be applicable to existing renal dialysis facilities that are relocating or adding stations.~~

~~g) Relocation of Facilities – Review Criterion. This criterion may only be used to justify the relocation of a facility from one location in the planning area to another in the same planning area and may not be used to justify any additional stations. The applicant must document the following:~~

~~1) that the existing facility has met the occupancy targets detailed in 77 Ill. Adm. Code 1100.630 for the latest 12 month period for which data is available;~~

~~2) that the proposed facility will improve access for care to the existing patient population; and~~

~~3) that the existing facility needs to be replaced in order to comply with Section 1110.420(b).~~

~~h) Addition of Stations – Review Criterion. This criterion applies to an existing facility which proposes the addition of stations at the existing site. The applicant must document the following:~~

~~1) that the existing facility has met the occupancy targets set forth in 77 Ill. Adm. Code 1100.630 for the latest 12 month period for which data is available;~~

~~2) that the proposed project will not adversely impact the workload at any other existing facility within 30 minutes travel time of the applicant facility; and~~

~~3) that a need for additional stations exists in the planning area based upon the update to the Inventory of Health Care Facilities in effect at the time of State Board consideration; or that the proposed project is in conformance with the variance set forth in subsection (c) of this Section.~~

~~i) Quality of Care – Review Criterion. The applicant must demonstrate the following:~~

~~1) that greater than 65% of its patients achieve a urea reduction ratio (URR) of 0.65 or better; and~~

~~2) that greater than 65% of its patients achieve a hematocrit level of 31% or better.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART R: CATEGORY OF SERVICE REVIEW CRITERIA – GENERAL LONG TERM~~LONG-TERM~~ CARE

Section 1110.1710 Introduction (Repealed)

~~Subpart R contains Review Criteria which pertain to the General Long-Term Care category of service. These Review Criteria are utilized in addition to the "General Review Criteria" outlined in Subpart C and any other applicable Review Criteria outlined in Subparts D and E.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 1110.1720 General Long Term~~Long-Term~~ Care – Definitions (Repealed)

~~a) "General Long-Term Care" means a classification of categories of service that provides inpatient levels of care primarily for convalescent or chronic disease adult patients/residents who do not require specialized long-term care services.~~

~~b) The General Long-Term Care Classification includes the nursing category of service. The nursing category of service provides inpatient treatment for convalescent or chronic disease patients/residents and includes the skilled nursing level of care and/or the intermediate nursing level of care (both as defined in IDPH's Long-Term Care Facilities Minimum Standards, Rules and Regulations).~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.1730 General Long Term~~Long-Term~~ Care – Review Criteria

a) Introduction

1) This Section applies to projects involving General Long Term Care. Applicants proposing to establish, expand or modernize General Long Term Care category of service shall comply with the applicable subsections of this Section, as follows:

PROJECT TYPE	REQUIRED REVIEW CRITERIA	
Establishment of Services or Facility	(b)(1) -	Planning Area Need – 77 Ill. Adm. Code 1100 (formula calculation)
	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(3) -	Planning Area Need – Service Demand - Establishment of Bed Category of Service
	(b)(5) -	Planning Area Need - Service Accessibility
	(e)(1) -	Unnecessary Duplication of Services
	(e)(2) -	Maldistribution
	(e)(3) -	Impact of Project on Other Area Providers
	(g) -	Staffing Availability

	(h) -	Facility Size
	(i) -	Community Related Functions
	(j) -	Zoning
	(k) -	Assurances
Expansion of Existing Services	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(4) -	Planning Area Need – Service Demand – Expansion of Bed Category of Service
	(g) -	Staffing Availability
	(h) -	Facility Size
	(k) -	Assurances
Category of Service Modernization	(f)(1) -	Deterioriated Facilities
	(f)(2) & (3) -	Documentation
	(f)(4) -	Utilization
	(h) -	Facility Size
	(i) -	Community Related Functions
	(j) -	Zoning
Continuum of Care - Establishment or Expansion	(c)(1) & (2) -	Description of Continuum of Care Components
	(c)(3) -	Documentation
	(g) -	Staffing Availability
	(h) -	Facility Size
	(i) -	Community Related Functions
	(j) -	Zoning
	(k) -	Assurances
Defined Population - Establishment or Expansion	(d)(1) -	Description of Defined Population to be Served
	(d)(2) -	Documentation of Need
	(g) -	Staffing Availability
	(h) -	Facility Size
	(i) -	Community Related Functions
	(j) -	Zoning
	(k) -	Assurances

2) If the proposed project involves the replacement of a facility or service onsite, the applicant shall comply with the requirements listed in

subsection (a)(1) for "Category of Service Modernization" plus subsection (k) (Assurances).

3) If the proposed project involves the replacement of a facility or service on a new site, the applicant shall comply with the requirements of subsection (a)(1) for "Establishment of Services or Facility".

4) If the proposed project involves the replacement of a facility or service (onsite or new site), the number of beds being replaced shall not exceed the number justified by historical occupancy rates for each of the latest two years, unless additional beds can be justified per the criteria for "Expansion of Existing Services".

b) Planning Area Need - Review Criterion
The applicant shall document that the number of beds to be established or added is necessary to serve the planning area's population, based on the following:

1) 77 Ill. Adm. Code 1100 (formula calculation)

A) The number of beds to be established for each category of service is in conformance with the projected bed deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.

B) The number of beds proposed shall not exceed the number of the projected deficit, to meet the health care needs of the population served, in compliance with the occupancy standard specified in 77 Ill. Adm. Code 1100.

2) Service to Planning Area Residents

A) Applicants proposing to establish or add beds shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.

B) Applicants proposing to add beds to an existing category of bed service shall provide patient origin information for all admissions

for the last 12-month period, verifying that at least 50% of admissions were residents of the area. For all other projects, applicants shall document that at least 50% of the projected patient volume will be from residents of the area.

C) Applicants proposing to expand an existing category of bed service shall submit patient origin information by zip code, based upon the patient's legal residence (other than a health care facility), for the last six months immediately prior to admission.

3) Service Demand – Establishment of Bed Category of Service
The number of beds proposed to establish a new category of bed service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new long term care (LTC) facility, the applicant shall submit projected referrals.

A) Historical Referrals
If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for each proposed category of bed service, for each of the latest two years. Documentation of the referrals shall include: patient origin by zip code; name and specialty of referring physician; name and location of the recipient LTC facility.

B) Projected Referrals
An applicant proposing to establish a bed category of service or establish a new LTC facility, shall submit the following:

i) Hospital referral letters that attest to the number of patients (by zip code of residence) who have received care at existing facilities located in the area during the 12-month period prior to submission of the application;

ii) An estimated number of patients the hospital will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of

referrals cannot exceed the hospital's experienced LTC caseload;

iii) Each referral letter shall contain the Chief Executive Officer's notarized signature, the typed or printed name of the hospital, and the hospital's address; and

iv) Verification by the hospital that the patient referrals have not been used to support another pending or approved CON application for the subject services.

4) Service Demand – Expansion of Bed Category of Service
The number of beds to be added at an existing facility is necessary to reduce the facility's experienced high occupancy and to meet a projected demand for service. The applicant shall document subsection (b)(4)(A) and either subsection (b)(4)(B) or (C):

A) Historical Service Demand

i) An average annual occupancy rate that has equaled or exceeded occupancy standards for the category of service, as specified in 77 Ill. Adm. Code 1100, for each of the latest two years.

ii) If patients have been referred to other facilities in order to receive the subject services, the applicant shall provide documentation of the referrals, including: patient origin by zip code; name and specialty of referring physician; and name and location of the recipient facility, for each of the latest two years.

B) Projected Referrals
The applicant shall provide the following:

i) Hospital referral letters that attest to the hospital's total number of patients (by zip code of residence) who have received care at existing LTC facilities located in the area during the 12-month period prior to submission of the application;

ii) An estimated number of patients whom the hospital will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the hospital's documented historical LTC caseload. The percentage of project referrals used to justify the proposed expansion cannot exceed the historical percentage of applicant market share, within a 24-month period after project completion;

iii) Each referral letter shall contain the hospital Chief Executive Officer's notarized signature, the typed or printed name of the hospital, and the hospital's address; and

iv) verification by the hospital that the patient referrals have not been used to support another pending or approved CON application for the subject services.

C) Projected Service Demand – Based on Rapid Population Growth
If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as experienced annually within the latest 24-month period), the projected service demand shall be determined as follows:

i) The applicant shall define the facility's market area based upon historical patient origin data by zip code or census tract;

ii) Population projections shall be produced, using, as a base, the population census or estimate for the most recent year, for county, incorporated place, township or community area, by the U.S. Census Bureau or IDPH;

iii) Projections shall be for a maximum period of 10 years from the date the application is submitted;

iv) Historical data used to calculate projections shall be for a number of years no less than the number of years projected;

v) Projections shall contain documentation of population changes in terms of births, deaths and net migration for a period of time equal to or in excess of the projection horizon;

vi) Projections shall be for total population and specified age groups for the applicant's market area, as defined by HFPB, for each category of service in the application; and

vii) Documentation on projection methodology, data sources, assumptions and special adjustments shall be submitted to HFPB.

5) Service Accessibility
The number of beds being established or added for each category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) Service Restrictions
The applicant shall document that at least one of the following factors exists in the planning area:

i) The absence of the proposed service within the planning area;

ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;

iii) Restrictive admission policies of existing providers;

iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;

v) For purposes of this subsection (b)(5) only, all services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

B) Supporting Documentation
The applicant shall provide the following documentation concerning existing restrictions to service access:

i) The location and utilization of other planning area service providers;

ii) Patient location information by zip code;

iii) Independent time-travel studies;

iv) A certification of waiting times;

v) Scheduling or admission restrictions that exist in area providers;

vi) An assessment of area population characteristics that document that access problems exist;

vii) Most recently published IDPH Long Term Care Questionnaire.

c) Continuum of Care
The applicant proposing a continuum of care project shall provide the following:

1) The project will provide a continuum of care for a geriatric population that includes independent living and/or congregate housing (such as unlicensed apartments, high rises for the elderly and retirement villages) and related health and social services. The housing complex shall be on the same site as the health facility component of the project.

2) Such a proposal shall be for the purposes of and serve only the residents of the housing complex and shall be developed either after the housing complex has been established, or as a part of a total housing construction

program, provided that the entire complex is one inseparable project, that there is a documented demand for the housing, and that the licensed beds will not be built first, but will be built concurrently with or after the residential units.

3) The applicant shall provide the following:

A) That the proposed number of beds is needed. Documentation shall consist of a list of available patients/residents needing the proposed project. The proposed number of beds shall not exceed one licensed LTC bed for every five apartments or independent living units;

B) Provision in the facility's written operational policies assuring that a resident of the retirement community who is transferred to the LTC facility will not lose his/her apartment unit or be transferred to another LTC facility solely because of the resident's altered financial status or medical indigency; and

C) That admissions to the long term care unit will be limited to current residents of the independent living units and/or congregate housing.

d) Defined Population
The applicant proposing a project for a defined population shall provide the following:

1) The applicant shall document that the proposed project will service a defined population group of a religious, fraternal or ethnic nature from throughout the entire health service area or from a larger geographic service area (referred to in this subsection (d) as the GSA) proposed to be served and that includes, at a minimum, the entire health service area in which the facility is or will be physically located.

2) The applicant shall document each of the following:

A) A description of the proposed religious, fraternal or ethnic group proposed to be served;

B) The boundaries of the GSA;

C) The number of individuals in the defined population who live within the proposed GSA, including the source of the figures;

D) That the proposed services do not exist in the GSA where the facility is or will be located;

E) That the services cannot be instituted at existing facilities within the GSA in sufficient numbers to accommodate the group's needs. The applicant shall specify each proposed service that is not available in the GSA's existing facilities and the basis for determining why that service could not be provided.

F) That at least 85% of the residents of the facility will be members of the defined population group. Documentation shall consist of a written admission policy insuring that the requirements of this subsection (d)(2)(F) will be met.

G) That the proposed project is either directly owned, sponsored or affiliated with the religious, fraternal or ethnic group that has been defined as the population to be served by the project. The applicant shall provide legally binding documents that prove ownership, sponsorship or affiliation.

e) Unnecessary Duplication/Maldistribution - Review Criterion

1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:

A) A list of all zip code areas that are located, in total or in part, within 30 minutes normal travel time of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and

C) The names and locations of all existing or approved health care facilities located within 30 minutes normal travel time from the project site that provide the categories of bed service that are proposed by the project.

2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, beds and services characterized by such factors as, but not limited to:

A) A ratio of beds to population that exceeds one and one-half times the State average;

B) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the occupancy standard established pursuant to 77 Ill. Adm. Code 1100; or

C) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above occupancy standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project:

A) Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and

B) Will not lower, to a further extent, the utilization of other area facilities that are currently (during the latest 12-month period) operating below the occupancy standards.

f) Category of Service Modernization

1) If the project involves modernization of a category of hospital facility bed service, the applicant shall document that the inpatient bed areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized, due to such factors as, but not limited to:

A) High cost of maintenance;

B) Non-compliance with licensing or life safety codes;

C) Changes in standards of care (e.g., private versus multiple bed rooms); or

D) Additional space for diagnostic or therapeutic purposes.

2) Documentation shall include the most recent:

A) IDPH CMMS inspection reports; and

B) Joint Commission on Accreditation of Healthcare Organizations reports.

3) Other documentation shall include the following, as applicable to the factors cited in the application:

A) Copies of maintenance reports;

B) Copies of citations for life safety code violations; and

C) Other pertinent reports and data.

4) Projects involving the replacement or modernization of a category of service or facility shall meet or exceed the occupancy standards for the categories of service, as specified in 77 Ill. Adm. Code 1100.

g) Staffing Availability - Review Criterion

1) An applicant proposing to establish a new category of service or to add beds to an existing category of service shall document that a sufficient supply of personnel will be available to staff the total number of beds proposed. Sufficient staff availability shall be based upon evidence that, for the latest 12-month period prior to submission of the application, those facilities located in zip code areas that are, in total or in part, within one hour normal travel time of the applicant facility's site have not experienced

a staffing shortage with respect to the categories of services proposed by the project.

2) A staffing shortage is indicated by an average annual vacancy rate of more than 10% for budgeted full-time equivalent staff positions for health care workers who are subject to licensing by the Department of Financial and Professional Regulation.

3) An applicant shall document that a written request for this information was received by all existing facilities within the zip code areas, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility has not experienced staffing vacancy rates in excess of 10%. Copies of any correspondence received from the facilities shall be included in the application.

4) If more than 25% of the facilities contacted indicated an experienced staffing vacancy rate of more than 10%, the applicant shall provide documentation as to how sufficient staff shall be obtained to operate the proposed project, in accordance with licensing requirements.

h) Performance Requirements - Facility Size
The maximum size of a general long term care facility is 250 beds, unless the applicant documents that a larger facility would provide personalization of patient care and documents provision of quality care based on the experience of the applicant and compliance with IDPH's licensure standards (77 Ill. Adm. Code: Chapter I, Subchapter c - Long-Term Care Facilities) over a two-year period of time.

i) Community Related Functions – Review Criterion
The applicant shall document cooperation with and the receipt of the endorsement of community groups in the town or municipality where the facility is or is proposed to be located, such as, but not limited to, social, economic or governmental organizations or other concerned parties or groups. Documentation shall consist of copies of all letters of support from such organizations.

j) Zoning – Review Criterion

The applicant shall document one of the following:

1) The property to be utilized has been zoned for the type of facility to be developed;

2) Zoning approval has been received; or

3) A variance in zoning for the project is to be sought.

k) Assurances

1) The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the second year of operation after the project completion, the applicant will achieve and maintain the occupancy standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal.

2) For beds that have been approved based upon representations for continuum of care (subsection (c)) or defined population (subsection (d)), the facility shall provide assurance that it will maintain admissions limitations as specified in those subsections for the life of the facility. To eliminate or modify the admissions limitations, prior approval of HFPB will be required.

~~a) Facility Size – Review Criterion. The maximum size of a general long-term care facility is 250 beds, unless the applicant documents that a larger facility would provide personalization of patient care and documents provision of quality care based on the experience of the applicant and compliance with IDPH's licensure standards (77 Ill. Adm. Code: Chapter I, Subchapter c) (Long-Term Care Facilities) over a 2 year period of time.~~

~~b) Community Related Functions – Review Criterion. The applicant must document cooperation with and the receipt of the endorsement of community groups in the town or municipality where the facility is or is proposed to be located, such as, but not limited to, social, economic or governmental organizations or other concerned parties or groups. Documentation shall consist of copies of all letters of support from such organizations.~~

~~c) Zoning – Review Criterion. The applicant must document one of the following:~~

~~1) the property to be utilized has been zoned for the type of facility to be developed;~~

~~2) zoning approval has been received; or~~

~~3) a variance in zoning for the project is to be sought.~~

~~d) Variances to Computed Nursing Care Bed Need – Review Criterion~~

~~1) Defined Population Variance.~~

~~A) The applicant must document that the proposed project will service a defined population group of a religious, fraternal or ethnic nature from throughout the entire health service area or from a larger geographic area (hereinafter referred to as the GA) proposed to be served and which includes, at a minimum, the entire health service area in which the facility is or will be physically located. Documentation shall consist of the following:~~

~~i) a description of the proposed religious, fraternal or ethnic group proposed to be served;~~

~~ii) the boundaries of the GA; and~~

~~iii) the number of individuals in the defined population which lives within the proposed GA, including the source of the figures.~~

~~B) In addition, the applicant must document each of the following:~~

~~i) the proposed services do not exist in the GA where the facility is or will be located; and~~

~~ii) the services cannot be instituted at existing facilities within the GA in sufficient number to accommodate the group's needs. The applicant must enumerate each specific service the proposed facility will provide which could not be provided in any of the existing facilities in the GA; the~~

~~basis for determining why such service could not be provided.~~

~~C)~~ ~~The application must document that the proposed number of beds is needed based upon the target occupancy rate. Documentation shall consist of an identification of the defined population volume; the patient origin of the proposed patients; and a rationale for the utilization projections.~~

~~D)~~ ~~The applicant must document that at least 85% of the residents of the facility will be members of the defined population group. Documentation shall consist of written admission policy which insures that the requirements of this subsection will be met.~~

~~E)~~ ~~The applicant must document that the proposed project is either directly owned, sponsored or affiliated with the religious, fraternal or ethnic group that has been defined as the population to be served by the project. The applicant must provide legally-binding documents which prove ownership, sponsorship or affiliation.~~

~~2)~~ ~~Continuum of Care Variance~~

~~A)~~ ~~The applicant must document that the project will provide a continuum of care for a geriatric population which includes independent living and/or congregate housing (such as unlicensed apartments, high rises for the elderly, and retirement villages) and related health and social services. Such housing complex must be on the same site as the health facility component of the project. Such a proposal must be for the purposes of and serve only the residents of the housing complex and may be developed in one of the following ways:~~

~~i)~~ ~~The proposal may be developed after the housing complex has been established; or~~

~~ii)~~ ~~The proposal may be developed as a part of a total housing construction program, provided that, the entire complex is one inseparable project and that there is a documented demand for the housing and that the licensed beds will not~~

~~be built first, but will be built concurrently with or after the residential units.~~

~~B)~~ ~~The applicant must also document the following:~~

~~i)~~ ~~That the proposed number of beds are needed. Documentation shall consist of a list of available patients/residents needing the proposed project. The proposed number of beds may not exceed one licensed long-term care bed for every five apartments or independent living units; and~~

~~ii)~~ ~~That its written policies of operation provide that if a resident of the retirement community is transferred to the long-term care unit, the resident will not lose his or her apartment unit or be transferred to another long-term care facility solely because of the resident's altered financial status or medical indigency.~~

~~e)~~ ~~Staffing – Review Criterion~~
~~Applicants must document that the supply of manpower currently available in the area is sufficient to meet the health service needs in that area. Documentation should include, but is not limited to, letters from employment services in the area indicating the number of potential health care employees on their rolls; letters from local health departments, in whose jurisdiction the applicant is located, indicating the availability of personnel in the planning area; actual applications for employment on file with the applicant; and surveys performed by persons other than the applicant regarding the availability of manpower.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART X: CATEGORY OF SERVICE REVIEW CRITERIA –
SELECTED ORGAN TRANSPLANTATION

Section 1110.2310 Introduction (Repealed)

~~Subpart X contains review criteria which pertain to the selected organ transplantation category of service. These review criteria are utilized in addition to the "General Review Criteria" outlined in Subpart C and any other applicable Review Criteria outlined in Subparts D and E.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.2320 Selected Organ Transplantation – Definitions (Repealed)

~~a) The selected organ transplantation service means a category of service relating to the surgical transplantation of any of the following human organs: heart, lung, heart-lung, liver, pancreas, or intestine and small bowel. It does not include bone marrow or cornea transplants.~~

~~b) A selected organ transplantation center means a hospital which provides staffing and other adult or pediatric medical and surgical specialty services required for the care of a transplant patient.~~

~~c) "Teaching Institution" for the purpose of this Subpart means a hospital having a major relationship with a medical school as defined and listed in the current "Directory of Residency Training Programs" developed by the American Medical Association, 535 Dearborn, Chicago, Illinois 60610 and the National Organ Procurement and Transplantation Network.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.2330 Selected Organ Transplantation – Review Criteria

a) Introduction

1) This Section applies to projects involving the following category of service: Selected Organ Transplantation. Applicants proposing to establish or modernize this category of service shall comply with the applicable subsections of this Section, as follows:

PROJECT TYPE	REQUIRED REVIEW CRITERIA	
Establishment of Services or Facility	(b)(1) -	Planning Area Need – 77 Ill. Adm. Code 1100 (formula calculation)
	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(3) -	Planning Area Need – Service Demand - Establishment of Category

		of Service
	(b)(4) -	Planning Area Need - Service Accessibility
	(c)(1) -	Unnecessary Duplication of Services
	(c)(2) -	Maldistribution
	(c)(3) -	Impact of Project on Other Area Providers
	(e) -	Staffing Availability
	(f) -	Surgical Staff
	(g) -	Collaborative Support
	(h) -	Support Services
	(i) -	Performance Requirements
	(j) -	Assurances
Category of Service Modernization	(d)(1) -	Deterioriated Facilities
	(d)(2) & 3 -	Documentation
	(d)(4) -	Utilization
	(i) -	Performance Requirements
	(j) -	Assurances

2) If the proposed project involves the replacement of a facility or service on site, the applicant shall comply with the requirements listed in subsection (a)(1) for "Category of Service Modernization" plus subsection (j) (Assurances).

3) If the proposed project involves the relocation of an existing facility or service, the applicant shall comply with the requirements of subsection (a)(1) for "Establishment of Services or Facility", as well as requirements in Section 1110.130 (Discontinuation) and Section 1110.1430(i) (Relocation of Facilities).

4) If the proposed project involves the replacement of a hospital or service (onsite or new site), the number of key rooms being replaced shall not exceed the number justified by historical occupancy rates for each of the latest two years.

b) Planning Area Need - Review Criterion

The applicant shall document that the proposed category of service is necessary to serve the planning area's population, based on the following:

1) 77 Ill. Adm. Code 1100 (formula calculation)
No formula need for this category of service has been established.

2) Service to Planning Area Residents
Applicants proposing to establish this category of service shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable) for each category of service included in the project.

3) Service Demand – Establishment of Category of Service
The establishment of this category of service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new hospital, the applicant shall submit projected referrals.

A) Historical Referrals
If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for this category of service, for each of the latest two years. Documentation of the referrals shall include: patient origin by zip code; name and specialty of referring physician; name and location of the recipient hospital.

B) Projected Referrals
An applicant proposing to establish this category of service shall submit the following:

i) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing facilities located in the area during the 12-month period prior to submission of the application;

ii) An estimated number of patients the physician will refer annually to the applicant's facility within a 24-month period

after project completion. The anticipated number of referrals cannot exceed the physician's experienced caseload;

iii) The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

4) Service Accessibility
The establishment of this category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) Service Restrictions
The applicant shall document that at least one of the following factors exists in the planning area:

i) The absence of the proposed service within the planning area;

ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;

iii) Restrictive admission policies of existing providers;

iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;

v) For purposes of this subsection (b)(4) only, all services within the three-hour normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

B) Supporting Documentation
The applicant shall provide the following documentation concerning existing restrictions to service access:

i) The location and utilization of other planning area service providers;

ii) Patient location information by zip code;

iii) Independent time-travel studies;

iv) A certification of waiting times;

v) Scheduling or admission restrictions that exist in area providers;

vi) An assessment of area population characteristics that document that access problems exist;

vii) Most recently published IDPH Hospital Questionnaire.

c) Unnecessary Duplication/Maldistribution - Review Criterion

1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:

A) A list of all zip code areas that are located, in total or in part, within three hours normal travel time of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and

C) The names and locations of all existing or approved health care facilities located within three hours normal travel time from the project site that provide this category of service.

2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, beds and services characterized by such factors as, but not limited to:

A) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the occupancy standard established pursuant to 77 Ill. Adm. Code 1100; or

B) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above occupancy standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project:

A) Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and

B) Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.

d) Category of Service Modernization

1) If the project involves modernization of this category of service, the applicant shall document that the inpatient areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized, due to such factors as, but not limited to:

A) High cost of maintenance;

B) Non-compliance with licensing or life safety codes;

C) Changes in standards of care (e.g., private versus multiple bed rooms); or

D) Additional space for diagnostic or therapeutic purposes.

2) Documentation shall include the most recent:

A) IDPH CMMS inspection reports; and

B) Joint Commission on Accreditation of Healthcare Organizations reports.

3) Other documentation shall include the following, as applicable to the factors cited in the application:

A) Copies of maintenance reports;

B) Copies of citations for life safety code violations; and

C) Other pertinent reports and data.

4) Projects involving the replacement or modernization of a category of service or hospital shall meet or exceed the utilization standards for the category of service, as specified in 77 Ill. Adm. Code 1100.

e) Staffing Availability - Review Criterion

1) An applicant proposing to establish this category of service shall document that a sufficient supply of personnel will be available to staff the proposed project. Sufficient staff availability shall be based upon evidence that, for the latest 12-month period prior to submission of the application, those hospitals located in zip code areas that are, in total or in part, within one hour normal travel time of the applicant facility's site have not experienced a staffing shortage with respect to the categories of service proposed by the project.

2) A staffing shortage is indicated by an average annual vacancy rate of more than 10% for budgeted full-time equivalent staff positions for health care

workers who are subject to licensing by the Department of Financial and Professional Regulation.

3) An applicant shall document that a written request for this information was received by all existing facilities within the zip code areas, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility has not experienced staffing vacancy rates in excess of 10%. Copies of any correspondence received from the facilities shall be included in the application.

4) If more than 25% of the facilities contacted indicated an experienced staffing vacancy rate of more than 10%, the applicant shall provide documentation as to how sufficient staff shall be obtained to operate the proposed project, in accordance with licensing requirements.

f) Surgical Staff – Review Criterion
The applicant shall document that the facility has at least one transplant surgeon certified in the applicable specialty on staff and that each has had a minimum of one year of training and experience in transplant surgery, post-operative care, long term management of organ recipients and the immunosuppressive management of transplant patients. Documentation shall consist of curricula vitae of transplant surgeons on staff and certification by an authorized representative that the personnel with the appropriate certification and experience are on the hospital staff.

g) Collaborative Support – Review Criterion
The applicant shall document collaboration with experts in the fields of hepatology, cardiology, pediatrics, infectious disease, nephrology with dialysis capability, pulmonary medicine with respiratory therapy support, pathology, immunology, anesthesiology, physical therapy and rehabilitation medicine. Documentation of collaborate involvement shall include, but not be limited to, a plan of operation detailing the interaction of the transplant program and the stated specialty areas.

h) Support Services – Review Criterion
An applicant shall submit a certification from an authorized representative that

attests to each of the following:

1) Availability of on-site access to microbiology, clinical chemistry, radiology, blood bank and resources required to monitor use of immunosuppressive drugs;

2) Access to tissue typing services; and

3) Ability to provide psychiatric and social counseling for the transplant recipients and for their families.

i) Performance Requirements

1) The applicant shall document that the proposed category of service will be provided at a teaching institution.

2) The applicant shall document that the proposed category of service will be performed in conjunction with graduate medical education.

3) The applicant shall provide proof of membership in the Organ Procurement and Transplantation Network (OPTN) and a federally designated organ procurement organization (OPO).

j) Assurances
The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the second year of operation after the project completion, the applicant will achieve and maintain the occupancy standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal.

~~a) Establishment of a Program – Review Criterion~~

~~1) The applicant must document the following:~~

~~A) the applicant is a teaching institution; and~~

~~B) the transplantation program will be performed in conjunction with graduate medical education.~~

~~2) Documentation shall consist of a written agreement between the applicant and the medical school detailing the relationship of the transplantation program to graduate medical education.~~

~~b) Physical Facilities – Review Criterion. The applicant must document sufficient operating and recovery room resources, intensive care resources and personnel to operate the transplant program as reflected in the norms found in Appendix B of this Part.~~

~~c) Access to Donor Organs – Review Criterion. The applicant must document access to donor organs. This must be accomplished by membership in the National Organ Procurement and Transplantation Network and in a Regional Organ Procurement Agency.~~

~~d) Recipient Selection – Review Criterion. The applicant must provide a copy of its procedures for selecting transplant candidates and distribution of organs.~~

~~e) Surgical Staff – Review Criterion. The applicant must document that the facility has on staff transplant surgeon(s) certified in the applicable specialty and that each has had a minimum of one year of training and experience in transplant surgery, post-operative care, long-term management of organ recipients and the immunosuppressive management of transplant patients. Documentation shall consist of certification by the hospital administrator that the personnel with the appropriate certification and experience are on the hospital staff.~~

~~f) Collaborative Support – Review Criterion. The applicant must document collaboration with experts in the fields of hepatology, cardiology, pediatrics, infectious disease, nephrology with dialysis capability, pulmonary medicine with respiratory therapy support, pathology, immunology, anesthesiology, physical therapy, and rehabilitation medicine. Documentation of collaborate involvement shall include, but not be limited to, a plan of operation detailing the interaction of the transplant program and the stated specialty areas.~~

~~g) Ancillary Services – Review Criterion. The applicant must document on site access to microbiology, clinical chemistry, radiology, blood bank and resources required to monitor use of immunosuppressive drugs. The applicant must also have access to tissue typing services and be able to provide psychiatric and social counseling for the transplant recipient and for their families.~~

~~h) Data – Review Criterion. The applicant must document that information on finances (cost and charges) and patient outcomes will be provided to the Department of Public Health.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART Y: CATEGORY OF SERVICE REVIEW CRITERIA – KIDNEY TRANSPLANTATION

Section 1110.2410 Introduction (Repealed)

~~Subpart Y contains Review Criteria which pertain to the Kidney Transplantation category of service. These review criteria are utilized in addition to the "General Review Criteria" outlined in Subpart C and any other applicable Review Criteria outlined in Subparts D and E.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.2420 Kidney Transplantation – Definitions (Repealed)

~~a) Kidney Transplantation is a category of service which involves the surgical replacement of a nonfunctioning human kidney with a donor kidney in order to restore renal function to the patient.~~

~~b) Kidney Transplantation Center means a hospital which directly furnishes transplantation and other medical and surgical specialty services required for the care of the kidney transplant patient, including inpatient dialysis furnished directly or under arrangement.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.2430 Kidney Transplantation – Review Criteria

a) Introduction

1) This Section applies to projects involving the following category of service: Kidney Transplantation. Applicants proposing to establish or modernize this category of service shall comply with the applicable subsections of this Section, as follows:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

PROJECT TYPE	REQUIRED REVIEW CRITERIA	
Establishment of Services or Facility	(b)(1) -	Planning Area Need – 77 Ill. Adm. Code 1100 (formula calculation)
	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(3) -	Planning Area Need – Service Demand - Establishment of Category of Service
	(b)(4) -	Planning Area Need - Service Accessibility
	(c)(1) -	Unnecessary Duplication of Services
	(c)(2) -	Maldistribution
	(c)(3) -	Impact of Project on Other Area Providers
	(e) -	Staffing Availability
	(f) -	Surgical Staff
	(g) -	Support Services
	(h) -	Performance Requirements
	(i) -	Assurances
Category of Service Modernization	(d)(1) -	Deterioriated Facilities
	(d)(2) & 3 -	Documentation
	(d)(4) -	Occupancy
	(h) -	Performance Requirements

2) If the proposed project involves the replacement of a facility or service onsite, the applicant shall comply with the requirements listed in subsection (a)(i) for "Category of Service Modernization" plus subsection (i) (Assurances).

3) If the proposed project involves the relocation of an existing facility or service, the applicant shall comply with the requirements of subsection (a)(1) for "Establishment of Services or Facility", as well as requirements in Section 1110.130 (Discontinuation) and Section 1110.1430(i) (Relocation of Facilities).

4) If the proposed project involves the replacement of a facility or service (onsite or new site), the number of beds shall be replaced on a 1:1 basis. If

the applicant proposes to add beds to the replacement service or facility, the applicant shall also comply with the requirements listed in subsection (a)(1) for "Expansion of Existing Services".

b) Planning Area Need - Review Criterion
The applicant shall document that the proposed category of service is necessary to serve the planning area's population, based on the following:

1) 77 Ill. Adm. Code 1100 (formula calculation)
No formula need for this category of service has been established.

2) Service to Planning Area Residents
Applicants proposing to establish this category of service shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.

3) Service Demand – Establishment of Category of Service
The establishment of this category of service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new hospital, the applicant shall submit projected referrals.

A) Historical Referrals
If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for this category of service, for each of the latest two years. Documentation of the referrals shall include: patient origin by zip code; name and specialty of referring physician; name and location of the recipient hospital.

B) Projected Referrals
An applicant proposing to establish this category of service shall submit the following:

i) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have

received care at existing facilities located in the area during the 12-month period prior to submission of the application;

ii) An estimated number of patients the physician will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's documented historical caseload;

iii) Each referral letter shall contain the physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

4) Service Accessibility
The establishment of this category of service is necessary to improve access for planning area residents. The applicant shall document subsection (b)(4)(A) and either subsection (b)(4)(B) or (C):

A) Service Restrictions
The applicant shall document that at least one of the following factors exists in the planning area:

i) The absence of the proposed service within the planning area;

ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;

iii) Restrictive admission policies of existing providers;

iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level,

high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;

v) For purposes of this subsection (b)(4) only, all services within the three-hour normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

B) Supporting Documentation
The applicant shall provide the following documentation concerning existing restrictions to service access:

i) The location and utilization of other planning area service providers;

ii) Patient location information by zip code;

iii) Independent time-travel studies;

iv) A certification of waiting times;

v) Scheduling or admission restrictions that exist in area providers;

vi) An assessment of area population characteristics that document that access problems exist;

vii) Most recently published IDPH Hospital Questionnaire.

c) Unnecessary Duplication/Maldistribution - Review Criterion

1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:

A) A list of all zip code areas that are located, in total or in part, within three hours normal travel time of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois); and

C) The names and locations of all existing or approved health care facilities located within three hours normal travel time from the project site that provide this category of service.

2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, beds and services characterized by such factors as, but not limited to:

A) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the occupancy standard established pursuant to 77 Ill. Adm. Code 1100; or

B) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above occupancy standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project:

A) Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and

B) Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.

d) Category of Service Modernization

1) If the project involves modernization of this category of service, the applicant shall document that the areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized, due to such factors as, but not limited to:

A) High cost of maintenance;

B) Non-compliance with licensing or life safety codes;

C) Changes in standards of care (e.g., private versus multiple bed rooms); or

D) Additional space for diagnostic or therapeutic purposes.

2) Documentation shall include the most recent:

A) IDPH CMMS inspection reports; and

B) Joint Commission on Accreditation of Healthcare Organizations reports.

3) Other documentation shall include the following, as applicable to the factors cited in the application:

A) Copies of maintenance reports;

B) Copies of citations for life safety code violations; and

C) Other pertinent reports and data.

4) Projects involving the replacement or modernization of a category of service or hospital shall meet or exceed the occupancy standards for the categories of service, as specified in 77 Ill. Adm. Code 1100.

e) Staffing Availability - Review Criterion

1) An applicant proposing to establish a new category of service shall document that a sufficient supply of personnel will be available to staff the proposed project. Sufficient staff availability shall be based upon evidence that, for the latest 12-month period prior to submission of the application, those hospitals located in zip code areas that are, in total or in part, within one hour normal travel time of the applicant facility's site have not experienced a staffing shortage with respect to the categories of services proposed by the project.

2) A staffing shortage is indicated by an average annual vacancy rate of more than 10% for budgeted full-time equivalent staff positions for health care workers who are subject to licensing by the Department of Financial and Professional Regulation.

3) An applicant shall document that a written request for this information was received by all existing facilities within the zip code areas, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility has not experienced staffing vacancy rates in excess of 10%. Copies of any correspondence received from the facilities shall be included in the application.

4) If more than 25% of the facilities contacted indicated an experienced staffing vacancy rate of more than 10%, the applicant shall provide documentation as to how sufficient staff shall be obtained to operate the proposed project, in accordance with licensing requirements.

f) Surgical Staff – Review Criterion
The applicant shall document that the facility has at least one transplant surgeon certified in the applicable specialty on staff and that each has had a minimum of one year of training and experience in transplant surgery, post-operative care, long-term management of organ recipients and the immunosuppressive management of transplant patients. Documentation shall consist of curricula vitae of transplant surgeons on staff and certification by an authorized representative that the personnel with the appropriate certification and experience are on the hospital staff.

g) Support Services – Review Criterion
The applicant must document that the following are available on premises: laboratory services, social services, dietetic services, self-care dialysis support services, inpatient dialysis services, pharmacy and specialized blood facilities (including tissue typing). The applicant must also document participation of the center in a recipient registry. Documentation shall consist of a certification as to the availability of such services and participation in a recipient registry.

h) Performance Requirements
The applicant shall document that:

1) The proposed category of service will be provided at a teaching institution;

2) The proposed category of service will be performed in conjunction with graduate medical education;

3) The applicant renal transplantation center has membership in the Organ Procurement and Transplantation Network (OPTN) and a federally designated organ procurement organization (OPO); and

4) The subject renal transplantation center is performing 25 or more transplants per year.

i) Assurances
The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the second year of operation after the project completion, the applicant will achieve and maintain the occupancy standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal.

~~a) Establishment of Facilities – Review Criterion. The applicant must document that each existing renal transplantation center is serving a population base of more than two million people with the performance of 25 or more transplants per year and that an unserved population of at least two million people exists within three hours travel time. Documentation shall consist of travel time studies involving all existing service providers.~~

~~b) Kidney Transplantation Center – Review Criterion. The applicant must document that the following are available on premises: laboratory services, social services, dietetic services and self-care dialysis support services, inpatient dialysis services, pharmacy, specialized blood facilities (including tissue typing). The applicant must also document participation of the center in a recipient registry. Documentation shall consist of a certification as to the availability of such services and participation in a recipient registry.~~

~~c) Affiliation Agreements – Review Criterion. The applicant must document that the transplantation center is a teaching institution (see Section 1110.2320(c)).~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART Z: CATEGORY OF SERVICE REVIEW CRITERIA – SUBACUTE CARE HOSPITAL MODEL

Section 1110.2510 Introduction

a) Subpart Z of this Part contains review criteria that~~which~~ pertain to the subacute care hospital model category of service. Definitions pertaining to this Subpart are contained in the Act, in 77 Ill. Adm. Code 1100 and 1130, and in the Alternative Health Care Delivery Act [210 ILCS 3]. The subacute care hospital model category of service is a demonstration program that~~which~~ is authorized by the Alternative Health Care Delivery Act [210 ILCS 3]. These subacute care hospital model review criteria are utilized in addition to the applicable review criteria of Subparts C and AF~~General Review Criteria contained in Subpart C of this Part and in addition to the Financial and Economic Feasibility Review Criteria contained in 77 Ill. Adm. Code 1120~~. This Subpart also contains the methodology the State Board shall utilize in evaluating competing applications, if any, for the establishment of any subacute care hospital models.

b) A facility at any time may be caring for subacute patients. A permit must be obtained to establish a subacute care hospital model. Existing hospitals and long-term care facilities providing subacute care are not required to obtain a permit *provided, however, that the facilities shall not hold themselves out to the public as subacute care hospitals* (Section 15 of the Alternative Health Care Delivery Act [210 ILCS 3/15]). Establishment of a subacute care hospital model category of service occurs when a facility holds itself out to the general public as a subacute care hospital. In such instances failure to obtain a permit will result in the application of sanctions as provided for in the Illinois Health Facilities Planning Act [20 ILCS 3960].

c) As the purpose of the demonstration project is to evaluate the subacute care hospital model for quality factors, access and the impact on health care costs, each applicant approved for the category of service will be required to periodically submit data necessary for evaluating the model's effectiveness.

d) Applications received for the subacute care hospital model shall be deemed complete upon receipt by IDPH. Due to the comparative nature of the subacute care hospital model review, applicants will not be allowed to amend the application or provide additional supporting documentation during the review process. The application as submitted to IDPH shall serve as the basis for all standard and prioritization evaluation.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1110.2520 Subacute Care Hospital Model-Definitions (Repealed)

~~a)~~ ~~"Subacute Care Hospital" *is a designated site which provides medical specialty care for patients who need a greater intensity or complexity of care than generally provided in a skilled nursing facility but who no longer require acute hospital care. The average length of stay for patients treated in subacute care hospitals shall not be less than 20 days, and for individual patients, the expected length of stay at the time of admission shall not be less than 10 days. A subacute care hospital is either a freestanding building or a distinct physical and operational entity within a hospital or nursing home building. A subacute care hospital shall only consist of beds currently existing in licensed hospitals or skilled nursing facilities.* (Section 35 of the Alternative Health Care Delivery Act [210 ILCS 3/35])~~

~~b)~~ ~~"Subacute Care" means the provision of *medical specialty care for patients who need a greater intensity or complexity of care than generally provided in a skilled nursing facility but who no longer require acute hospital care. Subacute care includes physician supervision, registered nursing, and physiological monitoring on a continual basis.* (Section 35 of the Alternative Health Care Delivery Act [210 ILCS 3/35])~~

~~c)~~ ~~"Subacute Care Hospital Model" means a category of service for the provision of subacute care.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.2540 Subacute Care Hospital Model – HFPB~~State Board~~ Review

a) State Board Evaluation. The State Board shall evaluate each application for the subacute care hospital model category of service based upon compliance with the

conditions set forth in subsections (b), (c) and (d) of this Section.

b) State Board Prioritization of Hospital Applications

1) All hospital applications for each planning area shall be rank ordered based on points awarded as follows:

A) Compliance with all applicable review criteria of Subpart C~~ of this Part (General Review Criteria)~~ – 10 Points.

B) Compliance with all review criteria of Section 1110.2530 (Subacute Care Hospital Model Review Standards) – 10 Points.

C) Compliance with all applicable review criteria of Subpart AF~~77 Ill. Adm. Code 1120 (Financial Review Criteria)~~ – 10 Points.

D) In rural areas an applicant shall be awarded 25 Points if documentation is provided that the subacute care hospital model will provide the necessary financial support for the facility to provide continued acute care services. The~~Such~~ documentation shall consist of:

i) Factors within the facility or area ~~that, within the next two years,~~ will prevent the facility from complying with the minimum financial ratios established in Subpart AF~~Part 1120 concerning facility financial viability (a current ratio exceeding 1.5, a net margin percentage greater than 3%, a percent debt to total capitalization ratio of less than 80% and a projected debt service coverage ratio greater than 1.5)~~ within the next two years; and

ii) Historical documentation that the facility has failed to comply with the minimum financial ratios ~~referenced above,~~ in each of the last three calendar years; and

iii) Projected revenue from the:

• subacute hospital care model and the positive impact of that~~such~~ revenue on the financial position

of the applicant facility. The applicant must explain how the~~such~~ revenue will impact the facility's financial position such that the facility will comply with the financial viability ratios of Subpart AF~~Part 1120 referenced above~~; or ~~iv)Projected revenue from the~~

- subacute hospital model will be sufficient to operate the~~such~~ subacute care hospital care model in compliance with the financial viability ratios of Subpart AF~~Part 1120 referenced above~~, or that the applicant facility has entered into a binding agreement with another institution that~~which~~ guarantees the financial viability of the subacute hospital care model in accordance with the ratios established in Subpart AF~~Part 1120 referenced above~~ for a period of at least five ~~(5)~~ years, regardless of the financial ratios of the applicant facility.

E) Location in a medically underserved area (as defined by the Department of Health and Human Services (Section 332 of the Public Health Service Act) (42 USC~~U.S.C.~~ 254E) as a health professional shortage area) – 3 Points.

F) A multi-institutional system arrangement exists for the referral of subacute patients where the applicant facility serves as the receiving facility for the~~such a~~ system. A multi-institutional system consists of a network of licensed hospitals and long-term care facilities located within the planning area and within 60 minutes travel time of the applicant that~~which~~ are inter-related by contractual agreement that~~which~~ provides for an exclusive best effort arrangement concerning the transfer of patients between facilities. Best effort arrangement means that the referring facility will encourage and recommend to its medical staff that patients requiring subacute care will ~~only~~ be transferred only to the applicant facility~~.~~ – 1 Point per each additional facility in the multi-institutional system, to a maximum of 10 Points~~ten points~~.

G) The existence of Medicare and Medicaid certification at the applicant facility and historic volume at the applicant facility. The following point allocation will be applied:

i) In the last calendar or fiscal year Medicare/Medicaid patient days were between 10% and 25% of total facility patient days – 2 Points.

ii) In the last calendar or fiscal year Medicare/Medicaid patient days were between 26% and 50% of total facility patient days – 4 Points.

iii) In the last calendar or fiscal year Medicare/Medicaid patient days exceeded 50% of total facility patient days – 6 Points.

H) If, in each of the last five calendar years, the applicant facility documents a case mix consisting of: ventilator cases, head trauma cases, rehabilitation patients including spinal cord injuries, amputees and patients with orthopaedic problems requiring subacute care or patients with multiple complex diagnoses that~~which~~ included physiological monitoring on a continual basis, of such magnitude that if placed in the proposed subacute facility these patients would have constituted an annual occupancy exceeding 75% in each past year. If a multi-institutional system, as defined in subsection (b)(1)(F) of this Section, has an exclusive best efforts agreement, then each of the cases listed in this subsection (b)(1)(H) from such signatory facilities may be counted in computing the 75% annual occupancy threshold~~.~~ – 5 Points.

I) The applicant institution has documented that, during the last calendar year, at least 25% of all patient days of the applicant facility were reimbursed through contractual relationships with preferred provider organizations or HMOs~~HMO's.~~ – 3 Points.

J) If the applicant institution, over the last five calendar year period, has been issued a notice of revocation of license from IDPH~~the Department of Public Health~~ or has been decertified from the federal Title XVIII or XIX programs~~.~~ – Loss of 25 Points.

K) The applicant institution is accredited by the Joint Commission on Accreditation of Healthcare Organizations – 3 Points and 1 additional Point if accreditation is "with commendation~~.~~".

L) Staff support for the subacute care hospital model:

i) Full time Medical Director~~medical director~~ exclusively for the model – 1 Point,

ii) Physical therapist, 2 full-time equivalents (FTEs~~FTE's~~) or more – 1 Point,

iii) Occupational therapist, 1 FTE or more – 1 Point,

iv) Speech therapist, 1 FTE or more – 1 Point.

M) In areas where competing applications have been filed, 3 Points will be allocated to the applicant with the lowest positive mean net margin over the last three fiscal years. Each applicant must submit copies of the audited financial reports of the applicant facility for the latest three fiscal years.

2) Required Point Totals – Hospital Applications
A hospital application for the development of a subacute care hospital model must obtain a minimum of 50 points for approval. The applicant within the planning area receiving the most points shall be granted the permit for the category of service if the minimum point total has been exceeded. In the case of tie scores, HFPB ~~the State Board~~ shall base its decision on considerations relating to location, scope of service and access.

c) State Board Prioritization – Long-term Care Facilities

1) All long-term care applications for each planning area shall be rank ordered based on points awarded as follows:

A) Compliance with all applicable review criteria of Subpart C ~~(General Review Criteria)~~ – 10 Points

B) Compliance with all review criteria of Section 1110.2530 (Subacute Care Hospital Model Review Criteria) – 10 Points

C) Compliance with all applicable review criteria of Subpart AF~~Part 1120 (Financial and Economic Review Criteria)~~ – 10 Points

D) The applicant has had an Exceptional Care Contract with the Illinois Department of Healthcare and Family Services~~Public Aid~~ for at least two years in the past four years~~.~~ – 3 Points

E) Location in a medically underserved area (as defined by the federal Department of Health and Human Services (Section 332 of the Public Health Service Act) (42 USC~~U.S.C.~~ 254E) as a health professional shortage area) – 3 Points

F) The existence of Medicare and Medicaid certification at the applicant facility and historic volume at the facility. The following point allocation will be applied:

i) In the last calendar year or fiscal year Medicare/Medicaid patient days were between 10% and 25% of total facility patient days~~.~~ – 3 Points

ii) In the last calendar or fiscal year Medicare/Medicaid patient days were between 26% and 50% of total facility patient days~~.~~ – 6 Points

iii) In the last calendar or fiscal year Medicare/Medicaid patient days exceeded 50% of total facility patient days~~.~~ – 9 Points

G) If in each of the last two calendar years the applicant institution documents a casemix consisting of: ventilator cases, head trauma cases, rehabilitation patients including stroke cases, spinal cord injury, amputees and patients with orthopaedic problems requiring subacute care or patients with multiple complex diagnoses that~~which~~ included physiological monitoring on a continual basis, of such magnitude that, if placed in the proposed subacute facility,

these patients would have constituted an annual occupancy exceeding 50% in each past year. If a multi-institutional system, as defined in subsection (c)(1)(M) of this Section, has an exclusive best efforts agreement, then each of the cases listed in this subsection (c)(1)(G) from such signatory facilities may be counted in computing the 50% annual occupancy threshold~~.~~ – 5 Points

H) The applicant has documented that, during the last calendar year, at least 20% of all patient days of the applicant facility were reimbursed through contractual relationships with preferred provider organizations or HMOs~~HMO's.~~ – 3 Points

I) If the applicant, over the last five year period, has been issued a notice of revocation of license from IDPH~~the Department of Public Health~~ or decertified from the federal Title XVIII or XIX programs~~.~~ – Loss of 25 Points

J) Staff support for the subacute care hospital model:

i) Full time Medical Director~~medical director~~ exclusively for the model~~.~~ – 1 Point

ii) Physical therapist, 2 FTEs ~~full-time equivalents (FTE's)~~ or more~~.~~ – 1 Point

iii) Occupational therapist, 1 FTE or more~~.~~ – 1 Point

iv) Speech therapist, 1 FTE or more – 1 Point~~.~~

K) In areas where competing applications have been filed, 3 Points will be allocated to the application with the lowest positive mean net margin over the last three fiscal years. Each applicant must submit copies of the audited financial reports of the applicant facility for the latest three fiscal years.

L) The applicant institution is accredited by the Joint Commission on Accreditation of Healthcare Organizations – 3 Points and 1 additional Point if accreditation is "with commendation~~.~~".

M) A multi-institutional system arrangement exists for the referral of subacute patients where the applicant facility serves as the receiving facility for the~~such a~~ system. A multi-institutional system consists of a network of licensed hospitals and long-term care facilities located within the planning area and within 60 minutes travel time of the applicant that~~which~~ are inter-related by contractual agreement that~~which~~ provides for an exclusive best effort arrangement concerning the transfer of patients between facilities. Best effort arrangement means the referring facility will encourage and recommend to its medical staff that patients requiring subacute care will only be transferred to the applicant facility. – 1 Point per each additional facility in the multi-institutional system to a maximum of 10 Points~~ten points~~.

2) A long-term application for the development of a subacute care hospital model must obtain a minimum of 50 Points~~points~~ for approval. The applicant within the planning area receiving the most points shall be granted the permit for the category of service if the minimum point total has been exceeded. In the case of tie scores, HFPB~~the State Board~~ shall base its selection on considerations relating to location, scope of service and access.

d) HFPB~~State Board~~ Prioritization of Previously Licensed Hospital Applications in Chicago

1) All applications for sites previously licensed as hospitals in Chicago shall be rank ordered based upon points awarded as follows:

A) Compliance with all applicable review criteria of Subpart C~~ of this Part (General Review Criteria)~~ – 10 Points.

B) Compliance with all review criteria of Section 1110.2530 (Subacute Care Hospital Model Review Standards) – 10 Points.

C) Compliance with all applicable review criteria of Subpart AD~~77 Ill. Adm. Code 1120 (Financial Review Criteria)~~ – 10 Points.

D) Documentation that the proposed number of beds will be utilized at an occupancy rate of 75% or more within two years after permit

approval. Documentation shall consist of historical subacute caseload from one or more referral facilities where such caseload would in the future be transferred to the subacute model for care, anticipated caseload from physician referrals to the unit and demographic studies projecting the need for subacute service within the primary market of the proposed subacute hospital care model~~.~~ – 10 Points

2) Required Point Totals – Previously Licensed Hospitals
The applicant within the planning area receiving the most points shall be granted the permit for the category of service. In the case of tie scores, HFPB ~~the State Board~~ shall base its selection on considerations relating to location, scope of service and access.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART AA: CATEGORY OF SERVICE REVIEW CRITERIA – POSTSURGICAL RECOVERY CARE CENTER ALTERNATIVE HEALTH CARE MODEL

Section 1110.2610 Introduction

a) Subpart AA of this Part contains review criteria that~~which~~ pertain to the postsurgical recovery care center alternative health care model category of service. Definitions pertaining to this Subpart are contained in the Act, in 77 Ill. Adm. Code 1100 and 1130, and in the Alternative Health Care Delivery Act [210 ILCS 3]. The postsurgical recovery care center alternative health care model category of service is a demonstration program that~~which~~ is authorized by the Alternative Health Care Delivery Act. These postsurgical recovery care center alternative health care model review criteria are utilized in addition to the applicable review criteria of Subparts C and AD~~General Review Criteria contained in Subpart C of this Part and in addition to the Financial and Economic Feasibility Review Criteria contained in 77 Ill. Adm. Code 1120~~. This Subpart also contains the methodology HFPB~~the State Board~~ shall utilize in evaluating competing applications, if any, for the establishment of any postsurgical recovery care center alternative health care models.

b) A postsurgical recovery care center alternative health care model must obtain a CON~~certificate of need~~ permit to establish the category of service prior to receiving a license for the service. Failure to obtain a~~such~~ permit will result in the

application of sanctions as provided for in the Illinois Health Facilities Planning Act [20 ILCS 3960].

c) As the purpose of the demonstration project is to evaluate the model for quality factors, access and the impact on health care cost, each applicant approved for the category of service will be required to periodically submit data necessary for evaluating the model's effectiveness. All data requests of this type shall be a component of the semi-annual progress reports required of all permit holders. Data collected shall be provided to IDPH ~~the Department of Public Health~~ and the Illinois State Board of Health for use in their evaluation of the model.

d) Applications received for the postsurgical recovery care center alternative health care model shall be deemed complete upon receipt by IDPH~~the State Agency~~. All postsurgical recovery care center alternative health care models for the purposes of review shall be considered the establishment of a category of service rather than an addition of beds.~~ Therefore, the 60 day review requirement of 77 Ill. Adm. Code 1130.610(b) for bed projects shall not apply to applications of this type.~~ Due to the comparative nature of the postsurgical recovery care center alternative health care model review applicants will not be allowed to amend the application or provide additional supporting documentation during the review process prior to the initial HFPB~~State Board~~ decision. The application, as submitted to IDPH, shall serve as the basis for all standard and prioritization evaluation.

~~e) Applications received for the postsurgical recovery care center alternative health care model must be received by IDPH between 8:30 and 5:00 p.m.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1110.2620 Postsurgical Recovery Care Center Alternative Health Care Model – Definitions (Repealed)

~~a) "Postsurgical Recovery Care Center" *is a designated site which provides postsurgical recovery care for generally health patients undergoing surgical procedures that require overnight nursing care, pain control, or observation that would otherwise be provided in an inpatient setting.* Such a center may be either freestanding or a defined unit of an ambulatory surgical treatment center or hospital. The maximum length of stay for patients in a postsurgical recovery care center is not to exceed 72 hours. (Section 35 of the Alternative Health Care~~

~~Delivery Act [210 ILCS 3/35])~~

~~b)~~ ~~"Postsurgical Recovery Care Center Alternative Health Care Model" means a category of service for the provision of postsurgical recovery care within a postsurgical recovery care center.~~

~~c)~~ ~~"Surgical Referral Site" means an ambulatory surgical treatment center or hospital in which surgery will be performed and the surgical patient then transferred to the recovery care center.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.2640 Postsurgical Recovery Care Center Alternative Health Care Model – HFPB~~State Board~~ Review

a) HFPB~~State Board~~ Evaluation~~.~~
HFPB~~The State Board~~ shall evaluate each application for the postsurgical recovery care center alternative health care model category of service (refer to 77 Ill. Adm. Code 1100.750(c) for development restrictions) based upon compliance with the conditions set forth in subsection (b)~~ below~~.

b) HFPB~~State Board~~ Prioritization

1) An application for the category of service must meet the development restrictions specified in 77 Ill. Adm. Code 1100.750(c).

2) All applications for each planning area shall be rank ordered based on points awarded as follows:

A) Compliance with all applicable review criteria of Subpart C~~ of this Part (General Review Criteria)~~ – 10 Points.

B) Compliance with all review criteria of Section 1110.2630 (Postsurgical Recovery Care Center Alternative Health Care Model Review Standards) – 10 Points.

C) Compliance with all applicable review criteria of Subpart AD~~77 Ill. Adm. Code 1120 (Financial Review Criteria)~~ – 10 Points.

D) Location in a medically underserved area (as defined by the federal Department of Health and Human Services (Section 332 of the Public Health Service Act) as a health professional shortage area) – 3 Points.

E) To ensure~~insure~~ that the model evaluates a wide range of surgical cases, an applicant shall be awarded an additional point for each designated surgical specialty area beyond the required three areas from which patients are referred to the postsurgical recovery care center~~ (refer to Section 1110.2630(c) for surgical specialties)~~.

F) Historical Medicare and Medicaid surgical revenue at the surgical referral sites. 10% to 25%~~Ten to twenty-five percent~~ – 3 Points, 26% to 50%~~twenty-six to fifty percent~~ – 6 Points and over 50%~~fifty percent~~ – 9 Points

G) Accreditation of the applicant facility or facilities by the Joint Committee on Accreditation of Healthcare Organizations (JCAHO) or the Accreditation Association for Ambulatory Healthcare (AAAHC)~~.~~ – 3 Points~~.~~

3) A postsurgical recovery care center alternative health care model must obtain a minimum of 30 Points~~points~~ to be considered for approval. Competing applications within a planning area that~~which~~ have obtained the points necessary for permit consideration shall be evaluated by the HFPB~~State Board~~ to determine which application best implements the goals of the Health Facilities Planning Act and the Alternative Health Care Delivery Act.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART AB: CATEGORY OF SERVICE REVIEW CRITERIA – CHILDREN'S COMMUNITY-BASED HEALTH~~RESPITE~~ CARE CENTER ALTERNATIVE HEALTH CARE MODEL

Section 1110.2710 Introduction

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

a) Subpart AB of this Part contains review criteria that~~which~~ pertain to the Children's Community-Based Health ~~Respite~~ Care Center Alternative Health Care Model category of service. Definitions pertaining to this Subpart are contained in the Act, in 77 Ill. Adm. Code 1100 and 1130, and in the Alternative Health Care Delivery Act [210 ILCS 3]. The Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model category of service is a demonstration program that~~which~~ is authorized by the Alternative Health Care Delivery Act. These Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model review criteria are utilized in addition to the General Review Criteria contained in Subpart C of this Part and in addition to the applicable review criteria of Subparts C and AD~~Financial and Economic Feasibility Review Criteria contained in 77 Ill. Adm. Code 1120~~. This Subpart also contains the methodology HFPB~~the State Board~~ shall utilize in evaluating competing applications, if any, for the establishment of any Children's Respite Care Alternative Health Care Models. *The provisions of the Act concerning children's respite care centers shall not apply to any facility licensed under the Hospital Licensing Act, the Nursing Home Care Act, or the University of Illinois Hospital Act that provides respite care services to children* (Section 15 of the Alternative Health Care Delivery Act [210 ILCS 3/15]).

b) A Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model must obtain a certificate of need permit to establish the category of service prior to receiving a license for the service. Failure to obtain a~~such~~ permit will result in the application of sanctions as provided in the Illinois Health Facilities Planning Act [20 ILCS 3960].

c) As the purpose of the demonstration project is to evaluate the model for quality factors, access and the impact on health care costs, each applicant approved for the category of service will be required to periodically submit data necessary for evaluating the model's effectiveness. Data collected shall be provided to IDPH~~the Department of Public Health~~ and the Illinois State Board of Health for use in their evaluation of the model.

d) Applications received for the Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model shall be deemed complete upon receipt by HFPB~~the State Agency~~. All Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Models for purposes of review shall be considered the establishment of a category of service rather than the addition of beds. ~~Therefore, the 60-day review requirement of 77 Ill. Adm. Code 1130.610(b) for~~

~~bed projects shall not apply to applications of this type.~~ Due to the comparative nature of the Children's Community~~-~~Based Health~~Respite~~ Care Center Alternative Health Care Model review, applicants will not be allowed to amend the application or provide additional supporting documentation during the review process prior to the initial HFPB~~State Board~~ decision. The application, as submitted to HFPB~~the State Agency~~, shall serve as the basis for all standard and prioritization evaluations.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1110.2720 Children's Respite Care Center Alternative Health Care Model – Definitions (Repealed)

~~a)~~ ~~"Children's Respite Care Alternative Health Care Model" means a category of service for the provision of respite care to medically frail or technologically dependent children within a children's respite care center. Children cannot exceed age 18 and length of stay must be 14 days or less.~~

~~b)~~ ~~"Children's Respite Care Center" means a facility physically separate and apart from any other facility licensed by the Department of Public Health under the Alternative Health Care Delivery Act or any other Act and which is established and designed to provide a home-like environment to medically frail/technologically dependent children who are placed within the facility for short durations in order to provide a respite for the caregiver(s). The facility must provide *at a minimum, out-of-home respite care, hospital to home training for families and caregivers; short term transitional care to facilitate placement and training for foster care parents; parent and family support groups* (Section 35 of the Alternative Health Care Delivery Act [210 ILCS 3/35]).~~

~~c)~~ ~~"Medically Frail or Medically Fragile Child" means a child who requires a particular medical device to compensate for the use of a body function and who must be constantly assessed and monitored and have the necessary health care readily available to avert death or further disability.~~

~~d)~~ ~~"Out-of-Home Respite Care" means care provided in a facility setting to a clinically stable individual whose medical condition does not require major diagnostic procedures or therapeutic interventions and who normally receives such care in a home environment for the purposes of providing a respite to the caregiver from the responsibilities of providing such care.~~

~~e) "Short-Term Transitional Care" means care provided to an individual on an interim basis to allow for the training of the home caregiver or to allow the relocation of the patient from one care environment to another.~~

~~f) "Technologically Dependent or Technology Dependent Child" means a child who has a chronic health-related condition and whose survival and quality of life is dependent upon medical technology whether it be mechanical, biological or technical.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.2730 Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model – Review Criteria

a) Admission Policies – Review Criterion
The applicant shall~~must~~ document that the Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model will not restrict admissions due to age, race, diagnosis, or source of payment. Documentation shall consist of copies of all admission policies to be in effect at the facility and a signed statement that no restrictions on admissions due to these~~the~~ factors ~~indicated above~~ will occur.

b) Staffing – Review Criterion
The applicant shall~~must~~ document that the children's community-based health~~respite~~ care center will have a Medical Director~~medical director~~ who has expertise in chronic diseases of children. The applicant must also provide a staffing plan that will provide for nursing coverage as required by licensure. Documentation shall consist of: identification of the number and type of staff positions dedicated to the model; how special staffing circumstances will be handled; and identification of the facility Medical Director~~medical director~~ and a description of his or her responsibilities.

c) Mandated Services – Review Criterion
The applicant shall~~must~~ document that the children's community-based health~~respite~~ care center has the capability of providing the minimum range of services required under the Act, as referenced in Section 1110.2720(b). Documentation shall consist of a narrative explaining how ~~such~~ services will be provided.

d) Acute Care Backup – Review Criterion
The applicant shall~~must~~ document that an agreement has been signed with an acute care facility for the referral of emergency patients. The acute care facility shall ~~must~~ be located within 15 minutes travel time of the children's community-based health~~respite~~ care center and have an organized pediatric department.

e) Patient Screening/Emergency Care – Review Criterion
The applicant shall~~must~~ document that an admission protocol will be established for the screening of potential residents for the severity of medical conditions associated with the required care for the child. Facilities of this type are not intended to provide diagnosis or treatment or care to the chronic child whose medical condition would warrant placement in a facility when more sophisticated medical intervention is required. Documentation shall include a narrative description of all protocols developed for the medical screening of potential admissions. The applicant shall~~must~~ also document that, for each child admitted, a care plan has been developed that~~which~~ identifies the medical needs of the child and identifies a physician who~~that~~ can be contacted in case of emergency. The applicant shall~~must~~ submit a copy of the facility's protocols dealing with the required components of individual care plans and how emergency situations will be handled.

f) Education – Review Criterion
The applicant shall~~must~~ document that children who participate in educational programs will continue to receive ~~such~~ services during their stay at the facility. Documentation shall detail who has the responsibility for maintaining these services and how ~~such~~ services will be provided.

g) Age Specific Needs – Review Criterion
The needs of the medically frail child differ due to medical condition and to the age of the patient. The applicant shall~~must~~ document that, if the center will admit children of all age groups, ~~that~~ the appropriate staff expertise exists to deal with the care needs of all age groups admitted to the facility. Documentation shall consist of a narrative description of staff expertise as it pertains to the specific care needs required of the various age groups that will be admitted.

h) Project Costs – Review Criterion

An applicant shall~~must~~ document that the project cost to establish a~~such~~ model will not exceed $800,000. Documentation shall be based on Subpart AD~~the Part 1120 financial~~ data submissions that~~which~~ detail the itemized costs of the project.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1110.2740 Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model – HFPB~~State Board~~ Review

a) HFPB~~State Board~~ Evaluation~~.~~
HFPB~~The State Board~~ shall evaluate each application for the Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model category of service (refer to 77 Ill. Adm. Code 1100.760(c) for development restrictions) based upon compliance with the conditions set forth in subsection (b).

b) HFPB~~State Board~~ Prioritization

1) An application for the category of service shall~~must~~ meet the development restrictions specified in 77 Ill. Adm. Code 1100.760(c).

2) All applications for each planning area shall be evaluated by HFPB~~the State Board~~ and awarded points as follows:

A) Compliance with all applicable review criteria of Subpart C~~General Review Criteria~~ – 10 Points~~.~~

B) Compliance with all review criteria of Section 1110.2730 (Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model Review Criteria) – 10 Points~~.~~

C) Compliance with all applicable review criteria of Subpart AD~~77 Ill. Adm. Code 1120 (Financial Review Criteria)~~ – 10 Points~~.~~

D) Location of the proposed model in a residential community under single family or group home zoning requirements – 5 Points~~.~~

E) Location in a health professional shortage area (as defined by the federal Department of Health and Human Services (Section 332 of

the Public Health Service Act~~,~~ (42 USC 254(e))) – 3 Points~~.~~

3) A proposed Children's Community~~-~~Based Health~~Respite~~ Care Center Alternative Health Care Model shall~~must~~ comply with the development restrictions specified in 77 Ill. Adm. Code 1100.760(c) and shall~~must~~ obtain a minimum of 20 Points~~points~~ to be considered for approval. Competing applications within a planning area that~~which~~ have obtained the points necessary for permit consideration shall be evaluated by HFPB~~the State Board~~ to determine which application best implements the goals of the Health Facilities Planning Act and the Alternative Health Care Delivery Act, including the extent to which the model will provide care in a home-like environment and be located in a residential community.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1110.2750 Children's Community-Based Health~~Respite~~ Care Center Alternative Health Care Model – Project Completion

a) Since the purpose for establishment of this category of service is to evaluate the alternative delivery model for effectiveness, such projects are not complete until such time as the model is evaluated and the decision made to adopt or not adopt the model as an ongoing licensed level of service separate from an alternative delivery model. A permit will not be required of a Children's Respite Care Alternative Health Care Model which proposes to cease participation in the demonstration program. If the facility proposes to discontinue the model, written notice containing the reasons for the discontinuation must be received by HFPB~~the State Board~~ at least 90 days prior to the anticipated discontinuation. The project shall be considered abandoned as of the date IDPH~~the Agency~~ receives notice of the actual discontinuation or the date the last patient is discharged, whichever is later and the facility should be removed from the inventory.

b) All assurances for service presented in the application shall be in effect until the demonstration program has been completed, unless altered pursuant to the approval of HFPB~~the State Board~~.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART AC: CATEGORY OF SERVICE REVIEW CRITERIA –

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

COMMUNITY-BASED RESIDENTIAL REHABILITATION CENTER
ALTERNATIVE HEALTH CARE MODEL

Section 1110.2810 Introduction

a) Subpart AC of this Part contains review criteria that pertain to the community-based residential rehabilitation center category of service. Definitions pertaining to this Subpart are contained in the Act, in 77 Ill. Adm. Code 1100 and 1130, and in the Alternative Health Care Delivery Act [210 ILCS 3]. The community-based residential rehabilitation category of service is a demonstration program that is authorized by the Alternative Health Care Delivery Act ~~[210 ILCS 3]~~.

b) As the purpose of the demonstration project is to evaluate the community-based residential rehabilitation model for quality factors, access and the impact on health care costs, the model approved for the category of service will be required to periodically submit data necessary for evaluating the model's effectiveness. Data collected shall be provided to IDPH~~the Department of Public Health~~ and the Illinois State Board of Health for use in their evaluation of the model.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1110.2820 Community-Based Residential Rehabilitation Center Alternative Health Care Model – Definitions (Repealed)

~~a) "Community-Based Residential Rehabilitation Center" *is a designated site that provides rehabilitation or support, or both, for persons who have experienced severe brain injury, who are medically stable, and who no longer require acute rehabilitative care or intense medical or nursing services. The average length of stay in a community-based residential rehabilitation center shall not exceed 4 months.* [210 ILCS 3/35]~~

~~b) Community-Based Residential Rehabilitation" *services include, but are not limited to, case management, training and assistance with activities of daily living, nursing consultation, traditional therapies (physical, occupational, speech), functional interventions in the residence and community (job placement, shopping, banking, recreation), counseling, self-management strategies, productive activities, and multiple opportunities for skill acquisition and practice throughout the day.* [210 ILCS 3/35]~~

~~c) "Model" means a category of service for the provision of community-based residential rehabilitation care and services.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 1110.2830 Community-Based Residential Rehabilitation Center Alternative Health Care Model – Review Criteria

a) Staffing – Review Criterion
The applicant shall~~must~~ furnish a detailed staffing plan that provides: staff qualifications; identification of the number and type of staff positions dedicated to the model; how special staffing circumstances will be handled; staffing patterns for the proposed community-based residential rehabilitation center; and the manner in which non-dedicated staff services will be provided.

b) Mandated Services – Review Criterion
The applicant shall~~must~~ document that the community-based residential rehabilitation center has the capability of providing the minimum range of services required under the Alternative Health Care Delivery Act [210 ILCS 3/35]~~Act as referenced in Section 1110.2820(b)~~. Documentation shall consist of a narrative of how ~~such~~ services will be provided.

c) Unit Size – Review Criterion
The applicant shall~~must~~ document the number and location of all beds in the model. The applicant shall~~must~~ also document that the number of community-based residential rehabilitation beds shall not exceed 12 beds in any one residence, as defined in Section 35 of the Alternative Health Care Delivery Act ~~[210 ILCS 3/35]~~. No community-based residential rehabilitation center alternative health care delivery model shall exceed 100 beds.

d) Utilization – Review Criterion
The applicant shall~~must~~ document that the target utilization for this model (as defined at 77 Ill. Adm. Code 1100.770(c)) will be achieved by the second year of the model's operation. Documentation shall include, but not be limited to, historical utilization trends, population growth, expansion of professional staff or programs and the provision of new procedures that increase utilization.

e) Background of Applicant – Review Criterion
The applicant shall~~must~~ demonstrate experience in providing the services required

by the model. Additionally, the applicant shall~~must~~ document that the programs provided in the~~this~~ model have been accredited by the Commission on Accreditation of Rehabilitation Facilities as a Brain Injury Community-Integrative Program for at least three of the last five years.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART AD: CATEGORY OF SERVICE REVIEW CRITERIA – LONG TERM ACUTE CARE HOSPITAL BED PROJECTS

Section 1110.2930 Long Term Acute Care Hospital Bed Projects – Review Criteria

a) Introduction

1) This Section applies to projects involving the following categories of hospital bed services: Long Term Acute Care Hospital (LTACH). Applicants proposing to establish, expand or modernize a category of hospital bed service shall comply with the applicable subsections of this Section, as follows:

PROJECT TYPE	REQUIRED REVIEW CRITERIA	
Establishment of Services or Facility	(b)(1) -	Planning Area Need – 77 Ill. Adm. Code 1100 (formula calculation)
	(b)(2) -	Planning Area Need – Service to Planning Area Residents
	(b)(3) -	Planning Area Need – Service Demand - Establishment of Bed Category of Service
	(b)(5) -	Planning Area Need - Service Accessibility
	(c)(1) -	Unnecessary Duplication of Services
	(c)(2) -	Maldistribution
	(c)(3) -	Impact of Project on Other Area Providers
	(e) -	Staffing Availability
	(f) -	Performance Requirements
	(g) -	Assurances
Expansion of Existing Services	(b)(2) -	Planning Area Need – Service to

		Planning Area Residents
	(b)(4) -	Planning Area Need – Service Demand – Expansion of Bed Category of Service
	(e) -	Staffing Availability
	(f) -	Performance Requirements
	(g) -	Assurances
Category of Service Modernization	(d)(1) -	Deterioriated Facilities
	(d)(2) & 3 -	Documentation
	(d)(4) -	Occupancy
	(f) -	Performance Requirements

2) If the proposed project involves the replacement of a hospital or service on-site, the applicant shall comply with the requirements listed in subsection (a)(1) for "Category of Service Modernization" plus subsection (g) (Assurances).

3) If the proposed project involves the replacement of a hospital or service on a new site, the applicant shall comply with the requirements of subsection (a)(1) for "Establishment of Services or Facility".

4) If the proposed project involves the replacement of a hospital or service (onsite or new site), the number of beds being replaced shall not exceed the number justified by historical occupancy rates for each of the latest two years, unless additional beds can be justified per the criteria for "Expansion of Existing Services".

5) If the proposed project involves the conversion of existing acute care beds to LTACH services, the applicant shall comply with the requirements of subsection (a)(1) for "Establishment of Services or Facility", as well as requirements in subsection (b)(6) (Conversion of Existing General Acute Care Beds).

b) Planning Area Need - Review Criterion
The applicant shall document that the number of LTACH beds to be established or added is necessary to serve the planning area's population, based on the following:

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1) 77 Ill. Adm. Code 1100 (formula calculation)

A) The number of LTACH beds to be established is in conformance with the projected bed deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.

B) The number of LTACH beds proposed shall not exceed the number of the projected deficit, to meet the health care needs of the population served, in compliance with the occupancy standard specified in 77 Ill. Adm. Code 1100.

2) Service to Planning Area Residents

A) Applicants proposing to establish or add beds shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.

B) Applicants proposing to add beds to an existing category of bed service shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 75% of admissions were residents of the area. For all other projects, applicants shall document that at least 75% of the projected patient volume will be from residents of the area.

C) Applicants proposing to expand an existing category of hospital bed service shall submit patient origin information by zip code, based upon the patient's legal residence (other than a health care facility), for the last six months immediately prior to admission.

3) Service Demand – Establishment of Bed Category of Service
The number of beds proposed to establish a new category of hospital bed service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new hospital, the applicant shall submit projected referrals.

A) Historical Referrals
If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for each proposed category of hospital bed service, for each of the latest two years. Documentation of the referrals shall include: patient origin by zip code; name and specialty of referring physician; name and location of the recipient hospital.

B) Projected Referrals
An applicant proposing to establish a bed category of service or establish a new hospital shall submit the following:

i) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing LTACH facilities located in the area or had a length of stay of over 25 days in a general acute care hospital and were considered to be LTACH candidates, annually over the latest two year period prior to submission of the application; and an estimate as to the number of patients that will be referred to the applicant's facility;

ii) An estimated number of patients the physician will refer annually to the applicant's facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's documented historical caseload;

iii) Each referral letter shall contain the physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

C) Type of Patients

The applicant shall identify the type of patients that will be served by the project by providing the anticipated diagnosis (by DRG classification) for anticipated admissions to the facility. The applicant shall also indicate the types of service (e.g., ventilator care, etc.) to be provided by the project.

4) Service Demand – Expansion of Bed Category of Service
The number of beds to be added for each category of service is necessary to reduce the facility's experienced high occupancy and to meet a projected demand for service. The applicant shall document subsection (b)(4)(A) and either subsection (b)(4)(B) or (C):

A) Historical Service Demand

i) An average annual occupancy rate that has equaled or exceeded occupancy standards for the category of service, as specified in 77 Ill. Adm. Code 1100, for each of the latest two years.

ii) If patients have been referred to other facilities in order to receive the subject services, the applicant shall provide documentation of the referrals, including: patient origin by zip code; name and specialty of referring physician; and name and location of the recipient hospital, for each of the latest two years.

B) Projected Referrals
The applicant shall provide the following:

i) Physician referral letters that attest to the number of patients (by zip code of residence) that have received care at existing LTACH facilities located in the area or had a length of stay of over 25 days in a general acute care hospital and were considered to be LTACH candidates, during the 12-month period prior to submission of the application;

ii) An estimated number of patients the physician will refer annually to the applicant's facility within a 24-month period

after project completion. The anticipated number of referrals cannot exceed the physician's documented historical caseload. The percentage of project referrals used to justify the proposed expansion cannot exceed the historical percentage of applicant market share, within a 24-month period after project completion;

iii) Each referral letter shall contain the physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty; and

iv) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

C) Projected Service Demand – Based on Rapid Population Growth
If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as experienced annually within the latest 24-month period), the projected service demand shall be determined as follows:

i) The applicant shall define the facility's market area based upon historical patient origin data by zip code or census tract;

ii) Population projections shall be produced, using, as a base, the population census or estimate for the most recent year, for county, incorporated place, township or community area, by the U.S. Census Bureau or IDPH;

iii) Projections shall be for a maximum period of 10 years from the date the application is submitted;

iv) Historical data used to calculate projections shall be for a number of years no less than the number of years projected;

v) Projections shall contain documentation of population changes in terms of births, deaths and net migration for a

period of time equal to or in excess of the projection horizon;

vi) Projections shall be for total population and specified age groups for the applicant's market area, as defined by HFPB, for each category of service in the application; and

vii) Documentation on projection methodology, data sources, assumptions and special adjustments shall be submitted to HFPB.

5) Service Accessibility
The number of beds being established or added for each category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) Service Restrictions
The applicant shall document that at least one of the following factors exists in the planning area:

i) The absence of the proposed service within the planning area;

ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;

iii) Restrictive admission policies of existing providers;

iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;

v) For purposes of this subsection (b)(5) only, all services within the 45-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

B) Supporting Documentation
The applicant shall provide the following documentation, as applicable, concerning existing restrictions to service access:

i) The location and utilization of other planning area service providers;

ii) Patient location information by zip code;

iii) Independent time-travel studies;

iv) A certification of waiting times;

v) Scheduling or admission restrictions that exist in area providers;

vi) An assessment of area population characteristics that document that access problems exist;

vii) Most recently published IDPH Hospital Questionnaire.

6) Conversion of Existing General Acute Care Beds – Review Criterion
An applicant proposing to establish a Long-Term Acute Care Hospital category of service through the conversion of existing general acute care beds shall:

A) Address Section 1110.130 for discontinuation of categories of service;

B) Identify modifications in scope of services or elimination of clinical service areas, not covered in Section 1110.130 (e.g., Emergency Department Classification, Surgical Services, Outpatient Services, etc.);

C) Submit a statement as to whether the following clinical service areas are to be available to the general population (non-LTACH): operating rooms, surgical procedure rooms, diagnostic services, therapy services (physical, occupational, speech, respiratory) and other outpatient services; and

D) Document that changes in clinical service areas will not have an adverse impact upon the health care delivery system. An applicant shall document that a written request for information on any adverse impact was received by all hospitals within the 45-minute normal travel time, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute a non-rebuttable assumption that the existing facility will be adversely impacted.

c) Unnecessary Duplication/Maldistribution - Review Criterion

1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:

A) A list of all zip code areas that are located, in total or in part, within 45 minutes normal travel time of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and

C) The names and locations of all existing or approved health care facilities located within 45 minutes normal travel time from the project site that provide the categories of bed service that are proposed by the project.

2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, beds and services characterized by such factors as, but not limited to:

A) A ratio of beds to population that exceeds one and one-half times the State average;

B) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the occupancy standard established pursuant to 77 Ill. Adm. Code 1100; or

C) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above occupancy standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project:

A) Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and

B) Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.

d) Category of Service Modernization

1) If the project involves modernization of a category of hospital bed service, the applicant shall document that the inpatient bed areas to be modernized are deteriorated or functionally obsolete and need to be replaced or modernized, due to such factors as, but not limited to:

A) High cost of maintenance;

B) Non-compliance with licensing or life safety codes;

C) Changes in standards of care (e.g., private versus multiple bed rooms); or

D) Additional space for diagnostic or therapeutic purposes.

2) Documentation shall include the most recent:

A) IDPH CMMS inspection reports; and

B) Joint Commission on Accreditation of Healthcare Organizations reports.

3) Other documentation shall include the following, as applicable to the factors cited in the application:

A) Copies of maintenance reports;

B) Copies of citations for life safety code violations; and

C) Other pertinent reports and data.

4) Projects involving the replacement or modernization of a category of service or hospital shall meet or exceed the occupancy standards for the categories of service, as specified in 77 Ill. Adm. Code 1100.

e) Staffing Availability - Review Criterion

1) An applicant proposing to establish a new hospital or to add beds to an existing hospital shall document that a sufficient supply of personnel will be available to staff the total number of beds proposed. Sufficient staff availability shall be based upon evidence that, for the latest 12-month period prior to submission of the application, those hospitals located in zip code areas that are, in total or in part, within one hour normal travel time of the applicant facility's site have not experienced a staffing shortage with respect to the categories of service proposed by the project.

2) A staffing shortage is indicated by an average annual vacancy rate of more than 10% for budgeted full-time equivalent staff positions for health care workers who are subject to licensing by the Department of Financial and Professional Regulation.

3) An applicant shall document that a written request for this information was received by all existing facilities within the zip code areas, and that the request included a statement that a written response be provided to the

applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility has not experienced staffing vacancy rates in excess of 10%. Copies of any correspondence received from the facilities shall be included in the application.

4) If more than 25% of the facilities contacted indicated an experienced staffing vacancy rate of more than 10%, the applicant shall provide documentation as to how sufficient staff shall be obtained to operate the proposed project, in accordance with licensing requirements.

f) Performance Requirements

1) Bed Capacity Minimum
An applicant shall document that the project will result in a facility capacity of at least 50 Long Term Acute Care Hospital beds located in an MSA and 25 Long Term Acute Care Hospital beds in a non-MSA.

2) Length of Stay

A) An applicant proposing to add beds to an existing service shall document that the average length of stay (ALOS) for the subject service is consistent with the planning area's 3-year ALOS.

B) Documentation shall consist of the 3-year ALOS for all hospitals within the planning area (as reported in the Annual Hospital Questionnaire).

C) An applicant whose existing services have an ALOS exceeding 125% of the ALOS for area providers shall document that the severity or type of illness treated at the applicant facility is significantly higher than the planning area average. Documentation shall be provided from CMMS or other objective records.

D) An applicant whose existing services have an ALOS lower than the planning area ALOS shall submit an explanation as to the reasons for the divergence.

3) Be certified by Medicare as a Long-Term Acute Care Hospital within 12 months after the date of project completion.

g) Assurances
The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, within 30 months of operation after the project completion, the applicant will achieve and maintain the occupancy standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal.

(Source: Added at 32 Ill. Reg. _____, effective _____)

SUBPART AE: CLINICAL SERVICE AREAS OTHER THAN CATEGORIES OF SERVICE – REVIEW CRITERIA

Section 1110.3030 – Clinical Service Areas Other Than Categories of Service - Review Criteria

a) Introduction

1) These criteria are applicable only to those projects or components of projects (including major medical equipment), concerning Clinical Service Areas (CSAs) that are not "Categories of Service", but for which utilization standards are listed in Appendix B, including:

A) Surgery

B) Emergency Services and/or Trauma

C) Ambulatory Care Services (organized as a service)

D) Diagnostic and Interventional Radiology/Imaging (by modality)

E) Therapeutic Radiology

F) Laboratory

G) Pharmacy

H) Occupational Therapy/Physical Therapy

I) Major Medical Equipment

2) The applicant shall also comply with requirements of the review criterion in Section 1110.234(a) (Size of Project), as well as all other applicable requirements in 77 Ill. Adm. Code 1100, 1110 and 1130. Applicants proposing to establish, expand or modernize CSAs shall comply with the applicable subsections of this Section, as follows:

PROJECT TYPE	REQUIRED REVIEW CRITERIA	
New Services or Facility or Equipment	(b) -	Need Determination - Establishment
Service Modernization	(c)(1) -	Deteriorated Facilities
		and/or
	(c)(2) -	Necessary Expansion
		PLUS
	(c)(3)(A) -	Utilization - Major Medical Equipment
		or
	(c)(3)(B) -	Utilization - Service or Facility

3) If the proposed project involves the replacement of a facility or service onsite, the applicant shall comply with the requirements listed in subsection (a)(2) for "Service Modernization".

4) If the proposed project involves the replacement of a facility or service on a new site, the applicant shall comply with the requirements of subsection (a)(2) for "New Services or Facility or Equipment".

5) Projects involving the replacement of a service or facility shall meet or exceed the utilization standards for the service, as specified in Appendix B.

6) The number of key rooms proposed in a replacement or modernization project shall be justified by the historical utilization for each of the latest two years, per utilization standards cited in Appendix B.

b) Need Determination - Establishment
The applicant shall describe how the need for the proposed establishment was determined by documenting the following:

1) Service to the Planning Area Residents

A) Either:

i) The primary purpose of the proposed project is to provide care to the residents of the planning area in which the proposed service will be physically located; or

ii) If the applicant service area includes a primary and secondary service area that expands beyond the planning area boundaries, the applicant shall document that the primary purpose of the project is to provide care to residents of the service area; and

B) Documentation shall consist of strategic plans or market studies conducted, indicating the historical and projected incidence of disease or health conditions, or use rates of the population. The number of years projected shall not exceed the number of historical years documented. Any projections and/or trend analyses shall not exceed 10 years.

2) Service Demand
To demonstrate need for the proposed CSA services, the applicant shall document one or more of the indicators presented in subsections (b)(2)(A) through (D). For any projections, the number of years projected shall not exceed the number of historical years documented. Any projections and/or trend analyses shall not exceed 10 years.

A) Referrals from Inpatient Base
For CSAs that will serve as a support or adjunct service to existing inpatient services, the applicant shall document a minimum two-

year historical and two-year projected number of inpatients requiring the subject CSA.

B) Physician Referrals
For CSAs that require physician referrals to create and maintain a patient base volume, the applicant shall document patient origin information for the referrals. The applicant shall submit original signed and notarized referral letters, containing certification by the physicians that the representations contained in the letters are true and correct.

C) Historical Referrals to Other Providers
If, during the latest 12-month period, patients have been sent to other area providers for the proposed CSA services, due to the absence of those services at the applicant facility, the applicant shall submit verification of those referrals, specifying: the service needed; patient origin by zip code; recipient facility; date of referral; and physician certification that the representations contained in the verifications are true and correct.

D) Population Incidence
The applicant shall submit documentation of incidence of service based upon IDPH statistics or category of service statistics.

3) Impact of the Proposed Project on Other Area Providers
The applicant shall document that, within 24 months after project completion, the proposed project will not:

A) Lower the utilization of other area providers below the utilization standards specified in Appendix B.

B) Lower, to a further extent, the utilization of other area providers that are currently (during the latest 12-month period) operating below the utilization standards.

4) Utilization
Projects involving the establishment of CSAs shall meet or exceed the utilization standards for the services, as specified in Appendix B. If no utilization standards exist in Appendix B, the applicant shall document its

anticipated utilization in terms of incidence of disease or conditions, or historical population use rates.

c) Service Modernization
The applicant shall document that the proposed project meets one of the following:

1) Deteriorated Equipment or Facilities
The proposed project will result in the replacement of equipment or facilities that have deteriorated and need replacement. Documentation shall consist of, but is not limited to: historical utilization data, downtime or time spent out of service due to operational failures, upkeep and annual maintenance costs, and licensure or fire code deficiency citations involving the proposed project.

2) Necessary Expansion
The proposed project is necessary to provide expansion for diagnostic treatment, ancillary training or other support services to meet the requirements of patient service demand. Documentation shall consist of, but is not limited to: historical utilization data, evidence of changes in industry standards, changes in the scope of services offered, and licensure or fire code deficiency citations involving the proposed project.

3) Utilization

A) Major Medical Equipment
Proposed projects for the acquisition of major medical equipment shall document that the equipment will achieve or exceed any applicable target utilization levels specified in Appendix B within 12 months after acquisition.

B) Service or Facility
Projects involving the modernization of a service or facility shall meet or exceed the utilization standards for the service, as specified in Appendix B. The number of key rooms being modernized shall not exceed the number justified by historical utilization rates for each of the latest two years, unless additional key rooms can be justified per subsection (c)(2) (Necessary Expansion).

C) If no utilization standards exist, the applicant shall document in detail its anticipated utilization in terms of incidence of disease or conditions, or population use rates.

(Source: Added at 32 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Licensing

2) Code Citation: 11 Ill. Adm. Code 502

3) Section Number: 502.795 — Proposed Action: New Section

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

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking requires the licensing of companies, and their key employees, that do business on behalf of the racetracks (organization licensees).

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 in this Part? No

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

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

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017

13) Initial Regulatory Flexibility Analysis:

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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 which this rulemaking was summarized: This rulemaking was inadvertently not included on the 2008 Regulatory Agenda.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 502
LICENSING

SUBPART A: PROCEDURE

Section
502.10 Submission of Application
502.20 Complete Application
502.30 License Fees
502.40 Duration and Extent of Occupation Licenses
502.50 Rulings and Hearings
502.55 Denial of License
502.58 License to Participate

SUBPART B: STATUTORY GROUNDS FOR DENIAL OF A LICENSE

Section
502.60 Denial of a License for Criminal Conviction
502.72 First-Time Applicant Who Has Been Convicted of a Crime
502.76 Prohibitions Against Persons on Conditional Discharge, Parole, Probation or Supervision
502.78 Probationary Nature of Licenses
502.80 Unqualified to Perform the Duties
502.90 Falsifying Answers or Omitting Facts
502.100 Just Cause
502.102 Burden of Going Forward
502.104 Denial of a License for Just Cause in Illinois or in Another Racing Jurisdiction

SUBPART C: GENERAL CRITERIA

Section
502.110 Criteria for Determining Eligibility
502.115 Standards Required of All Applicants

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

SUBPART D: OWNERS

Section
502.120 Owners

SUBPART E: TRAINERS AND ASSISTANT TRAINERS

Section
502.200 Trainers and Assistant Trainers
502.210 Prospective Trainers or Assistant Trainers
502.220 Workers' Compensation

SUBPART F: JOCKEYS AND APPRENTICE JOCKEYS

Section
502.230 Jockeys and Apprentice Jockeys
502.235 Apprentice Jockeys, Criteria for Eligibility
502.238 Apprentice Contract or Certificate

SUBPART G: DRIVERS

Section
502.250 Harness Driver
502.260 Prospective Harness Drivers
502.270 "Q" Licenses
502.280 "P" Licenses
502.290 "A" Licenses

SUBPART H: OTHER LICENSEES

Section
502.300 Veterinarians
502.320 Veterinary Assistant
502.350 Farriers (Blacksmiths)
502.380 Exercise Riders
502.400 Pony Person
502.450 Stable Foreman
502.500 Jockey Agents
502.600 Authorized Agents

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

502.650 Tack Shop Operators and Other Vendors
502.660 Vendor Helper
502.680 Thoroughbred Grooms
502.690 Harness Grooms
502.700 Hotwalker
502.790 Totalizator Employee
502.795 Agents and Employees

SUBPART I: CONFLICTS OF INTEREST

Section
502.800 General Provisions
502.820 Dual Licensing
502.830 Limitations on License
502.840 Husbands and Wives
502.850 Transfer of a Horse

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

SOURCE: Emergency rule adopted and codified at 6 Ill. Reg. 9711, effective July 27, 1982, for a maximum of 150 days; adopted and codified at 6 Ill. Reg. 13786, effective October 25, 1982; amended at 7 Ill. Reg. 5225, effective April 1, 1983; amended at 11 Ill. Reg. 20611, effective January 1, 1988; amended at 13 Ill. Reg. 1562, effective January 23, 1989; amended at 13 Ill. Reg. 4931, effective March 22, 1989; amended at 14 Ill. Reg. 17641, effective October 16, 1990; amended at 15 Ill. Reg. 11985, effective August 12, 1991; amended at 16 Ill. Reg. 12774, effective July 31, 1992; amended at 17 Ill. Reg. 19961, effective November 9, 1993; amended at 18 Ill. Reg. 11615, effective July 7, 1994; amended at 19 Ill. Reg. 5034, effective April 1, 1995; amended at 19 Ill. Reg. 17190, effective January 1, 1996; amended at 20 Ill. Reg. 13052, effective October 1, 1996; amended at 22 Ill. Reg. 10656, effective June 1, 1998; amended at 28 Ill. Reg. 11244, effective August 1, 2004; amended at 29 Ill. Reg. 10248, effective August 1, 2005; amended at 32 Ill. Reg. _____, effective _____.

SUBPART H: OTHER LICENSEES

Section 502.795 Agents and Employees

"Agent" shall be defined as a person or business authorized to act on behalf of an organization licensee. "Employee" shall be defined as key personnel employed by an agent. "Key personnel"

shall be defined as persons that have authority to develop or administer policy or to make discretionary decisions. No agent or employee shall provide services to an organization licensee without a current occupation license issued by the Board.

(Source: Added at 32 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Medication

2) Code Citation: 11 Ill. Adm. Code 603

3)

Section Numbers:	Proposed Action:
603.60	Amendment
603.90	Amendment
603.200	New Section
603.210	New Section

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

5) A Complete Description of the Subjects and Issues Involved: At its March 13, 2007 meeting, the Board approved the establishment of a threshold level for the drug Pyrilamine, based on a report submitted to the Board by the Medication Task Force. The Task Force recommended to the Board that threshold levels should be established for Isoxsuprine (rulemaking adopted effective April 23, 2007) and Pyrilamine. Pyrilamine, a class 3 therapeutic drug, stays in the horse's system for long periods of time and is therefore problematic because trace levels create frequent positive tests. This

Section 603.90: Provides that Pyrilamine in the horse's system cannot exceed 50 nanograms per milliliter in urine. Oklahoma and the State of Washington have established a threshold level of 50 ng/ml for Pyrilamine and Ohio and Michigan, 100 ng/ml.

Section 603.90: Prohibits possession and/or use of Erythropoietin (EPO), Darbepoietin, Snake venom and Snail venom. Their use may endanger the health and welfare of the horse or the safety of the rider or driver.

Section 603.200: Implements a new testing program that seeks to expand its present testing program by giving it discretion to take racehorse blood samples on non-race days and on race-days (pre-race), for the purpose of testing for Epogen, DarbEPO, and other blood doping agents. This "out of competition" testing would be beneficial because blood doping agents are deemed adverse to the best interest of the racehorse in that it alters its normal physiological state. Implementation of this program will accomplish the purposes of detecting offenders, punishing offenders and, importantly, deterring improper administrations at anytime. The proposed rulemaking provides that representatives of the Racing Board may, with reasonable notice, subject any racehorse to testing.

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This proposed rulemaking is within the statutory framework of the Horse Racing Act that permits the Racing Board to take fluid samples from any racehorse at any race meeting in the State of Illinois.

Section 603.210: Bans all synthetic anabolic steroids will be banned with the exception of four commonly used steroids, with legitimate therapeutic use: Boldenone, Stanozolol, Nandrolone, and Testosterone, all of which are governed by the Racing Commissioners International model rule. Further, the RCI model rule establishes threshold levels for these four anabolic steroids. Anabolic steroids, which have gained national attention for their abuse by human athletes, are synthetic forms of the male hormone testosterone. In racehorses, anabolic steroids increase muscle mass, stimulate the production of red blood cells, and can have serious negative effects on a horse's reproductive system.

A majority of the racing jurisdictions in the U.S. either have anabolic steroid rules in place or expect to in the near future. In addition, the Thoroughbred Owners and Breeders Association has issued a directive to racing commissions for mandatory testing of Boldenone, Stanozolol, Nandrolone and Testosterone, effective January 1, 2008, as a condition of eligibility to card graded stakes races.

Foreign substances, including blood doping agents such as Erythropoietin (Epogen, EPO) and DarbEPO, may not be present in a racehorse's system on race day (regardless of the date of administration). Further, the administration of foreign substances to a racehorse on race day is prohibited. The Racing Board presently takes fluid samples from racehorses, for the purpose of testing them for numerous prohibited foreign substances, on race day only. With regard to the blood doping agents, the Racing Board adopted a rule in January 2007, which implemented a testing methodology focused on detecting elevated titers of anti-recombinant human EPO antibodies. The Racing Board presently takes blood samples from horses post-race on race day, and tests those samples pursuant to that existing rule and other provisions of 11 Ill. Adm. Code 603.

The Racing Board believes that blood doping agents continue to be administered to a limited number of racehorses prior to the date such horses are scheduled to compete. The Racing Board also believes that these agents, particularly EPO and/or DarbEPO, are administered for reasons that may include attempting to impact the horse's performance in a race, and in a manner to avoid detection by the present race day testing methodology. The Racing Board believes that any horse which is administered a blood doping agent should not participate in racing. Further, such administrations of blood doping agents may be adverse to the animals welfare.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

6) Published studies or reports and sources of underlying data used to compose this rulemaking: Racing Medication and Testing Consortium guidelines, Racing Commissioners International model rules and rules from various racing jurisdictions including Ontario, Canada.

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 in this Part? No

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

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

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Farms used for the stabling of racehorses and training facilities.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda which this rulemaking was summarized: January 2008

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER 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
603.200 Out of Competition Testing
603.210 Anabolic Steroids

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

SOURCE: Adopted at 21 Ill. Reg. 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; amended at 32 Ill. Reg. _____, effective _____.

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, isoxsuprine 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, isoxsuprine 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 that~~which~~ do not contain any "caine" derivatives, pharmacodynamic and/or chemotherapeutic agents, and that~~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:

1) The threshold level of isoxsuprine~~Isoxsuprine~~ shall be less than 1,000.0 ng/ml in urine.

2) The threshold level of pyrilamine shall be less than 50.0 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 32 Ill. Reg. _____, effective _____)

Section 603.90 Drugs, Chemicals and Prescription Items

a) No veterinarian or any other person shall have in his or her possession or administer to any horse within any race track enclosure any chemical substance that~~which~~:

1) has not been approved for use on equines by the Food and Drug Administration, pursuant to the Federal Food, Drug and Cosmetic Act~~,~~ (21 USC~~U.S.C. Section~~ 301 et seq.)~~,~~ and implementing regulations, without prior written approval from the State veterinarian;~~ or~~

2) ~~which~~ is on any of the schedules of controlled substances ~~as~~ prepared by the Attorney General of the United States pursuant to 21 USC~~U.S.C. Section~~ 811 and 812, without prior written approval from the State Veterinarian; or~~veterinarian.~~

3) the possession and/or use, on the premises of a facility under the jurisdiction of the Board, of any drug, substance or medication specified in this subsection (a)(3) for which a recognized analytical method has not been developed to detect and confirm its administration, or the use of which may endanger the health and welfare of the horse or the safety of the rider or driver.

A) Erythropoietin (EPO)

B) Darbepoietin

C) Snake venom

D) Snail venom

b) The State Veterinarian~~veterinarian~~ shall not give ~~such~~ approval under subsection (a) unless the person seeking ~~such~~ approval can produce evidence in recognized veterinary journals or by recognized equine experts that the ~~such~~ chemical substance has a beneficial, therapeutic use in horses.

c) No person except a veterinarian shall have in his or her possession within a race track enclosure any prescription drug, except as provided in this Section.

d) A person may possess a prescription drug for animal use if:

1) The person possesses, within the race track enclosure, documentary evidence that a prescription has been issued ~~to him~~ for the ~~such~~ prescription drug;

2) The prescription contains a specific dosage for the particular horse or horses to be treated by the prescription drug; and

3) The horse or horses named in the prescription are in that person's care within the race track enclosure.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 603.200 Out of Competition Testing

a) Any horse on the grounds of a racetrack under the jurisdiction of the Board, or stabled off-track, while under the care or control of a trainer or owner licensed by the Board, is subject to testing for blood and/or gene doping agents, with reasonable notice. This Section does not apply to therapeutic medications approved by the FDA for use in the horse.

b) Horses to be tested may be selected at random, with probable cause, or as determined by the Board for out of competition testing. The trainer is responsible to have the horse or horses available at a designated time and location (racetrack).

c) The Board Veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the Board, may, at any time, take a urine, blood or hair sample from a horse for out of competition testing.

d) Prohibited substances, practices and procedures are defined as:

1) blood doping agents including, but not limited to, erythropoietin (EPO), darbepoetin, oxyglobin, hemopure, aranesp, or any substance that abnormally enhances the oxygenation of body tissues.

2) gene doping agents or the non-therapeutic use of genes, genetic elements, and/or cells that have the capacity to enhance athletic performance or produce analgesia.

e) Cooperation with the Board Veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the Board, includes:

1) assisting in the immediate location and identification of the horse selected for out of competition testing;

2) providing a stall or safe location to collect the samples;

3) assisting the veterinarian in properly procuring the samples; and

4) obeying any instructions necessary to accomplish the requirements of this Section.

f) Referee samples will be collected pursuant to Section 603.120.

g) The Board may suspend, exclude and/or otherwise penalize any licensee or other person who does not fully cooperate with a Board employee or representative while taking action to enforce this Section.

h) Out of competition samples will be sent to the official laboratory of the Board, or other laboratory as designated by the Board.

(Source: Added at 32 Ill. Reg. _____, effective _____)

Section 603.210 Anabolic Steroids

a) The use of any one of the following four anabolic steroids is permitted if the following urine or plasma threshold concentrations are not exceeded:

1) Stanozolol (Winstrol) - 1 ng/ml in urine;

2) Boldenone (Equipoise) – in male horses other than geldings; including free boldenone and boldenone liberated from its conjugates - 15 ng/ml in urine;

3) Nandrolone - 1 ng/ml in urine; and

4) Testosterone – 20 ng/ml in urine in geldings and 55 ng/ml in urine in fillies and mares.

b) No other anabolic steroids shall be administered.

c) The presence of more than one of the four approved anabolic steroids at any concentration is not permitted.

d) Post-race urine samples collected from intact males shall be identified to the laboratory.

e) Any horse to which an anabolic steroid has been administered in order to assist in the recovery from an illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug in urine. Once the concentration is below the designated threshold, the horse is eligible to be removed from the list.

(Source: Added at 32 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: The "Grow Your Own" Teacher Education Initiative

2) Code Citation: 23 Ill. Adm. Code 60

3)

Section Numbers:	Proposed Action:
60.20	Amendment
60.50	Amendment
60.100	Amendment

4) Statutory Authority: 110 ILCS 48/90

5) A Complete Description of the Subjects and Issues Involved: This rulemaking responds to P.A. 95-476, which changed several existing statutory provisions in response to concerns expressed by institutions of higher education and other participants in the "Grow Your Own" program. The most important one of these that affects the rules is found in Section 25 of the Act, which allows waivers and deferrals of the obligation to repay the loans candidates receive to assist them in completing this program. The statute previously called for each such request to come from a program, rather than from the affected individual. However, many of the circumstances that could cause a need for someone's loan payments to be waived or deferred might not occur until years after the individual had left the program. There might no longer be any contact with members of the consortium, and thus there would be no way for representatives of the program to vouch for the person's circumstances. The law has been changed to eliminate this problem, enabling us to change Section 60.100(f)(5) accordingly.

A definition of "eligible school" was added to the statute, to mean one that is hard to staff and also serves a substantial percentage of low-income students. Further, the definition of "hard-to-staff school" was changed to match the definition used in the rules, which relied on information available to ISBE. These provisions now match the approach that had already been taken in the rules, and the changes permit us to delete some language in favor of brief cross-references. These changes are not substantive in nature.

Several other straightforward technical wording changes are also being made.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

9) Does this rulemaking contain incorporations by reference? No

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

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

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

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

217/782-5270

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

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Some of the community organizations that elect to participate in eligible consortia under this program may be not-for-profit corporations.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 60
THE "GROW YOUR OWN" TEACHER EDUCATION INITIATIVE

Section

60.10 Purpose
60.20 Definitions
60.30 Eligible Applicants
60.40 Implementation Grants – Procedure and Content of Proposals
60.50 Implementation Grants – Criteria for the Review of Proposals
60.60 Implementation Grants – Allocation of Funds
60.70 Continuation of Implementation Funding
60.80 Implementation Funding for "Transitional Projects" (Repealed)
60.90 Planning Grants
60.100 Loans; Waiver or Deferral of Repayment

AUTHORITY: Implementing the Grow Your Own Teacher Education Act [110 ILCS 48] and authorized by Section 90 of the Act [110 ILCS 48/90].

SOURCE: Adopted at 30 Ill. Reg. 1850, effective January 24, 2006; amended at 31 Ill. Reg. 3589, effective February 15, 2007; amended at 32 Ill. Reg. _____, effective _____.

Section 60.20 Definitions

"Act" means the Grow Your Own Teacher Education Act [110 ILCS 48].

"Applicant" means a consortium or a potential consortium, as applicable, as described in Section 60.30 of this Part.

"Candidate" means a person working toward a bachelor's degree qualifying that individual for a teaching certificate who is assisted under a grant awarded to a consortium pursuant to this Part.

"Cohort" means a group of candidates~~students~~ preparing for a teaching certificate who, pursuant to Sections 20 and 25 of the Act, begin receiving assistance under

this Part together. No member of any cohort may hold a bachelor's degree at the time of entry into the program, provided that this restriction shall not apply to members of cohorts for whose preparation funding was granted during Fiscal Year 2006.

"Consortium" means an entity to which the State Board can issue grants under this Part. A consortium shall be composed of at least one 4-year institution of higher education with an accredited teacher education program, at least one school district or group of schools, and one or more community organizations. The consortium may also include a 2-year institution of higher education and/or a school employee union. Eligible consortia are further defined in Section 20 of the Act. A consortium shall implement a program of forgivable loans to cover any portion of tuition and direct expenses of students preparing for teaching certificates in excess of grants-in-aid and other forgivable loans received.

"Direct expenses" are an individual's tuition for coursework required for completion of the preparation program in which the candidate is or will be enrolled, fees related to participation in the preparation program or required coursework, and expenses for books and other necessary instructional materials.

"Eligible school" is *an Illinois public elementary or secondary school that serves a substantial percentage of low-income students and either is hard to staff or has hard-to-staff teaching positions* (Section 10 of the Act).

~~"Hard-to-staff school" is an Illinois public school serving a substantial percentage of low-income students that ranks in the upper third among public schools of its type (e.g., elementary, middle, secondary) in terms of the rate of attrition among teachers.~~

~~"Hard-to-staff teaching position" is any position, in a school serving a substantial percentage of low-income students, that is experiencing substantial teacher shortage or critical local need as discussed in Section 10 of the Act.~~

"Institution" means an institution of higher education.

"Potential consortium" is a group of entities that is eligible to submit a proposal for a planning grant in response to an RFP issued under this Part.

"Student with a non-traditional background" is either one who begins a baccalaureate program at a point in time other than immediately following graduation from high school or one who began a baccalaureate program after high school, did not complete it, and re-enters a baccalaureate program after some passage of time.

"Year of service" means full-time employment for at least half a school year, or an equivalent amount of part-time employment, in:

a public school that, at the time the individual becomes employed, is either one of the schools targeted by the program completed by the individual with assistance under this Part or another school that is defined as hard to staff pursuant to this Section; or

a teaching position that, at the time the individual becomes employed, is hard to staff as defined in this Section.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 60.50 Implementation Grants – Criteria for the Review of Proposals

Proposals for implementation grants shall be evaluated in accordance with the following criteria:

a) Feasibility, Impact, and Cost-Effectiveness (40 points)

1) The proposal identifies a need for teachers in hard-to-staff schools and hard-to-fill positions and describes either a cohort that is available to enroll in the identified preparation program or time-specific plans for identifying and attracting the members of such a cohort.

2) The proposal describes strategies that will be used to reach members of underrepresented groups that reflect the diversity of the students enrolled in the participating~~targeted~~ schools and outlines plans for serving additional cohorts in future years.

3) The proposal demonstrates that:

A) coursework and experiences required for certification will be scheduled and located to be accessible to members of the cohort; and

B) supportive services (e.g., child care, counseling, tutoring) that have been identified as necessary will be offered to enable candidates to progress through the program and attain certification.

4) The proposal establishes a timetable or performance level for candidates as a condition for their continued receipt of assistance under this program.

5) The evaluation plan is designed to yield information that can be used both in judging the program's qualitative and quantitative impact and in identifying changes or new approaches that will improve the program's outcomes.

6) The proposal describes commitments on the part of all the consortium's members that will enable the consortium to sustain the program over time with a reduction in the need for external resources.

b) Quality of the Plan (30 points)

1) The proposal describes the role of each entity that is a member of the consortium, including the resources each entity will devote to this initiative, the major areas requiring collaboration among the members, and how decisions will be made with input from the members and the participants.

2) The proposal includes plans for assisting candidates in tapping sources of financial aid beyond those made available under this Part and by the members of the consortium.

3) The proposal demonstrates that the institution of higher education has the capacity (i.e., faculty and other resources) to serve the cohort in its approved teacher preparation program. If a two-year institution is involved in the consortium, the proposal delineates how coursework, other requirements, and services will be coordinated between the institutions.

4) The proposal describes the needs of the participating~~targeted~~ schools and demonstrates that the consortium's plan for certification under the program is relevant to those needs and will have an impact on the availability of qualified staff.

5) The plan of work for the program includes specific strategies for overcoming known barriers faced by the participating~~targeted~~ schools in retaining qualified teachers as well as barriers faced by the individuals who make up the cohort to be enrolled in the program.

6) The proposal describes the consortium's plans for extending support to candidates for at least two years after they attain certification, including such activities and services as mentoring and group meetings of the cohort.

c) Experience and Qualifications (20 points)

1) The proposal provides evidence that faculty and relevant staff of the institution are knowledgeable regarding the needs of hard-to-staff schools and the specific issues that candidates from non-traditional backgrounds encounter when attempting to complete preparation for teaching careers.

2) The proposal demonstrates that the community organization that is a member of the consortium has conducted projects or initiatives with a specific focus on involving parents and others in school improvement, either in the participating~~targeted~~ schools or schools with similar characteristics, and has the capacity to recruit candidates for and support them as they progress through the program.

3) The individual who is identified as coordinator for the cohort has experience in education and/or community organizing and in supporting individuals in the collegiate environment and is knowledgeable about group dynamics, support services, and cultural issues relevant to the cohort.

d) Evaluation Plans (10 points)

1) The proposal relates plans for the evaluation of candidates' teaching skills to the relevant portions of the institution's educational unit assessment

system (see 23 Ill. Adm. Code 25.140) and demonstrates that candidates in the program will be expected to meet the standards applicable to the approved program.

2) The proposal includes a plan for the evaluation of the program by or on behalf of the members of the consortium that will provide:

A) information on the progress of candidates within the preparation program; and

B) when applicable, information on this initiative's outcomes in terms of candidates' placement into hard-to-staff teaching positions or hard-to-staff schools and their retention in those positions.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 60.100 Loans; Waiver or Deferral of Repayment

Any candidate in a program administered under this Part may receive a forgivable loan for direct expenses associated with completion of the teacher preparation program, provided those expenditures are not otherwise paid for through grants-in-aid, other forgivable loans, or other resources of the consortium. Any amount expended for an individual's direct expenses shall be considered a part of that individual's loan, regardless of how the payment is administered and regardless of whether the individual receives any actual payment of funds. The total amount of any candidate's loan shall not exceed $25,000.

a) Pursuant to Section 25 of the Act, loan funds provided to candidates as part of *this program shall be fully forgiven if a graduate completes five years of service in hard-to-staff schools or hard-to-staff teaching positions, with partial forgiveness for shorter periods of service*. Forgiveness and repayment of loans shall be determined as provided in this Section.

b) An individual may accrue the service required for forgiveness of loans under this Part in one or more eligible~~hard-to-staff~~ schools or positions.

c) If an individual has not assumed employment in an eligible~~a hard-to-staff~~ school or position within two years after receiving a teaching certificate, the individual shall be required to begin the repayment of amounts loaned under this Part. No interest shall apply. An individual who drops out of the program shall be required

to begin repaying the amounts loaned in the month following the month when it becomes evident that he or she will not be completing any of the program's requirements for two consecutive semesters.

d) If an individual has not completed five years of service within 10 years after receiving a teaching certificate, the individual shall be required to begin the repayment of amounts loaned under this Part. The amount due shall be the total amount borrowed, less a percentage reflecting the relationship that any time taught by the individual in eligible~~hard-to-staff~~ schools or positions bears to the total five-year commitment. Loan amounts shall be reduced in increments of 10 percent for each semester completed.

e) Repayment of loans shall be made in no more than 60 equal installments. The minimum monthly payment will be determined by dividing the total amount due by 60. An individual may prepay the balance due on the loan in its entirety at any time or make payments in addition to the minimum amount owed each month without penalty.

f) In addition to the loan forgiveness permitted under Section 25 of the Act, the State Superintendent may defer or waive an individual's obligation to repay an amount due as provided in this subsection (f).

1) The State Superintendent shall waive the repayment obligation for an individual who is counseled out of a preparation program or found ineligible to continue, provided that the individual's exit from the program is not due to a violation of law or of applicable institutional policies.

2) The State Superintendent shall waive the repayment obligation for an individual who drops out of a preparation program or demonstrates that he or she is unable to complete a portion of the required teaching service due to:

A) the onset or exacerbation of a disability;

B) the need to care for an immediate family member during serious illness or disability;

C) destruction of the individual's residence; or

D) other circumstances that require the individual to assume responsibilities that cannot be avoided without serious financial hardship or other family disruption (e.g., death of a spouse that results in the need to take a second job or assume operation of a business).

3) The State Superintendent shall waive the repayment obligation for a candidate who does not complete a preparation program due to the unavailability of a State appropriation for this initiative for at least two consecutive years.

4) The State Superintendent shall defer the repayment obligation for a period of time specifically related to the circumstances when an individual:

A) is unemployed or is working for fewer than 30 hours per week;

B) is experiencing a financial hardship (e.g., receiving public assistance, earning an amount per month that is no greater than 200 percent of the amount of the loan payment, or experiencing circumstances such as those outlined in subsection (f)(2) of this Section); or

C) has re-enrolled as a full-time student in an institution of higher education or in a program under this Part.

5) Each request for a waiver or deferral of repayment shall be submitted in~~by a representative of the consortium under whose auspices the individual is or was enrolled in teacher preparation. Using~~ a format specified by the State Superintendent. The~~, the representative and the~~ affected individual shall describe the specific circumstances that apply. This description shall be accompanied by evidence such as a physician's statement, insurance claim, or other documentation of the relevant facts.

g) When a teaching certificate is issued to an individual who received assistance under this Part, the certificate shall be accompanied by:

1) a statement indicating the total amount of the loan received by the individual and identifying the dates applicable to repayment under this Section; and

2) a claim form that the individual may use to claim forgiveness of the loan amount, which shall require the individual to identify the periods of service completed in eligible ~~hard-to-staff~~ schools or positions and the school administrators who can verify the individual's service.

h) Management of Loans

1) It shall be the responsibility of each four-year institution of higher education, and of any two-year institution that participates in a consortium, to assist the State Board of Education with the forgivable loan process in the following manner:

A) by keeping records of the amounts provided to or on behalf of each individual for direct expenses;

B) by keeping up-to-date contact information regarding the address and telephone number of each individual during the individual's preparation at that institution; and

C) by notifying the State Superintendent within 30 days after a candidate fails to enroll in coursework as expected or otherwise ceases to participate in the program and informing the State Superintendent of the total amount of the candidate's loan for direct expenses as of that point in time.

2) When a candidate leaves a two-year institution and enters a four-year institution to continue in a program under this Part, the two-year institution shall inform both the State Superintendent and the four-year institution of the total amount of the candidate's loan for direct expenses as of that point in time. Each two-year institution shall ensure that the affected four-year institution continues to receive any information that subsequently affects the amount of a candidate's loan.

3) Each institution shall notify the State Superintendent as to who will be responsible for this information and shall provide contact information for the responsible individual within the institution.

i) It shall be the responsibility of the State Superintendent to take such actions as

may be necessary to secure repayment when necessary.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: School Technology Program

2) Code Citation: 23 Ill. Adm. Code 575

3) Section Number: 575.600 Proposed Action: Amendment

4) Statutory Authority: 105 ILCS 5/2-3.117a

5) A Complete Description of the Subjects and Issues Involved: The purpose of this rulemaking is to provide explicit permission for districts that participate in the School Technology Revolving Loan Program to make partial early repayments of the amounts borrowed. Section 575.600 already permits these districts to repay the entire amount owed on any of the scheduled payment dates, but it does not currently address the possibility of partial early payments. We believe districts should be able to reduce their debt as soon and as much as is convenient for them, and this new language will provide the basis on which they may do so.

The other revisions included are being made to distinguish functions of the Board from administrative actions by the State Superintendent and staff.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

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

217/782-5270

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

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

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

PART 575
SCHOOL TECHNOLOGY PROGRAM

SUBPART A: SCHOOL TECHNOLOGY GRANTS

Section
575.10 Purpose (Repealed)
575.20 Eligible Expenditures (Repealed)
575.30 Application Procedure and Content (Repealed)
575.40 Matching Requirements (Repealed)
575.50 Proposal Review and Approval (Repealed)
575.60 Terms of the Grant (Repealed)

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

Section
575.100 Purpose
575.200 Use of Funds
575.300 Maximum Amount of Loan
575.400 Application Procedures
575.500 Review of Application and Notification of Loan Award
575.600 Repayment Procedures
575.700 Terms and Conditions of Loan Agreement

AUTHORITY: Implementing and authorized by Section 2-3.117a of the School Code [105 ILCS 5/2-3.117a].

SOURCE: Adopted at 20 Ill. Reg. 3522, effective February 13, 1996; emergency amendment at 22 Ill. Reg. 9591, effective May 22, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19770, effective November 2, 1998; amended at 23 Ill. Reg. 8370, effective July 12, 1999; amended at 25 Ill. Reg. 8167, effective June 21, 2001; amended at 26 Ill. Reg. 915, effective January 15, 2002; amended at 28 Ill. Reg. 13227, effective September 17, 2004; amended at 29 Ill. Reg. 18474, effective October 31, 2005; amended at 32 Ill. Reg. _____, effective _____.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

Section 575.600 Repayment Procedures

Loans shall be repaid within three years (see Section 2-3.117a of the School Code).

a) The rate of interest shall be stipulated on the loan application and *shall not be greater than 50% of the rate for the most recent date shown in the 20 G.O. Bonds Index of average municipal bond yields as published in the most recent edition of The Bond Buyer, published in New York, New York* (Section 2-3.117a(a) of the School Code). Interest shall be computed semi-annually.

b) Payments on the loan (principal and interest) shall be made by check twice annually in six equal installments.

1) Loan payments shall be due on December 1 and June 1, with the first payment under each loan due on June 1 of the fiscal year in which the loan is made.

2) Checks shall be made payable to the "ISBE-School Technology Revolving Loan Fund" and mailed to the Fiscal and Administrative Services Division, Illinois State Board of Education, 100 North First Street, W-380, Springfield, Illinois 62777-0001.

3) Payments not received within 15 calendar days after the due date shall be assessed a penalty of 5 percent of the payment due; however, the late payment penalty shall be waived when either:

A) the postmark date on the envelope used to submit the payment is dated five days or more before the end of the 15-day grace period; or

B) the payment is not received at the State Board's office~~by the State Board of Education~~ within 60 days following the due date, but the participant provides to the State Superintendent~~Board~~ of Education no later than 70 days beyond the due date the following:

i) a copy of the original check, dated at least five days before

the end of the 15-day grace period;

ii) a copy of the stop payment order placed on the original check; and

iii) a new check issued in the amount due.

c) A participant may prepay the balance due on the loan in its entirety on any scheduled payment date or at the midpoint between any two scheduled payment dates, provided that the participant first contacts the State Superintendent's designee ~~Board of Education~~ to obtain the total amount of the principal and interest due at that time.

d) A participant may prepay a portion of the balance due on the loan on any scheduled payment date or at the midpoint between any two scheduled payment dates, provided that the participant first contacts the State Superintendent's designee for instructions. The remaining payments shall be recalculated to account for any early repayment, and the participant shall be notified accordingly.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: General Provisions

2) Code Citation: 23 Ill. Adm. Code 2700

3)

Section Numbers:	Proposed Action:
2700.15	Amendment
2700.20	Amendment
2700.30	Amendment
2700.50	Amendment

4) Statutory Authority: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments:

Several citations referencing Federal Regulations and the Higher Education Reconciliation Act of 2005 (HERA) have been updated throughout this Part. In Section 2700.15, the incorporations by reference date has been updated to July 1, 2008 to reflect a change necessitated by HERA. In Section 2700.20, the HERA Public Law number has been updated in the "Independent Student" definition and language has been added to the definition of "PLUS" to include graduate students in addition to parents. In Section 2700.30, the full name of the North Central Association of Colleges and Schools, Higher Learning Commission, is being included where it previously was referenced as North Central. Section 2700.50(c) applicant eligibility has been modified from "must certify" to "is certifying" as that is the action that is occurring. The list of acceptable residency documents in Section 2700.50(g)(5) has been expanded to include the 1099-Miscellaneous Income Statements to be used in conjunction with other documentation on that list.

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

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

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

9) Does this 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 create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 3706
email: lhynes@isac.org

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2700
GENERAL PROVISIONS

Section
2700.10 Summary and Purpose
2700.15 Incorporations by Reference
2700.20 Definitions
2700.30 General Institutional Eligibility Requirements
2700.40 General Applicant Eligibility Requirements
2700.50 Determining Applicant Eligibility
2700.55 Use, Security and Confidentiality of Data
2700.60 Audits and Investigations
2700.70 Appeal Procedures
2700.80 Contractual Agreement Requirements

AUTHORITY: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20783, effective January 1, 1986; amended at 11 Ill. Reg. 3167, effective January 29, 1987; amended at 11 Ill. Reg. 14099, effective August 10, 1987; amended at 12 Ill. Reg. 11510, effective July 1, 1988; amended at 13 Ill. Reg. 8626, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1700 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2700 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17854; amended at 14 Ill. Reg. 10538, effective July 1, 1990; amended at 16 Ill. Reg. 11206, effective July 1, 1992; amended at 17 Ill. Reg. 10541, effective July 1, 1993; amended at 18 Ill. Reg. 10282, effective July 1, 1994; amended at 19 Ill. Reg. 8343, effective July 1, 1995; amended at 20 Ill. Reg. 9170, effective July 1, 1996; amended at 21 Ill. Reg. 11066, effective July 18, 1997; amended at 22 Ill. Reg. 11072, effective July 1, 1998; amended at 23 Ill. Reg. 7550, effective July 1, 1999; amended at 24 Ill. Reg. 9121, effective July 1, 2000; amended at 25 Ill. Reg. 8383, effective July 1, 2001; amended at 26 Ill. Reg. 9980, effective July 1, 2002; amended at 27 Ill. Reg. 10320, effective July 1, 2003; amended at 29 Ill. Reg. 9884, effective July 1, 2005; amended at 30 Ill. Reg. 11600, effective July 1, 2006; amended at 31 Ill. Reg. 9478, effective July 1, 2007; amended at 32 Ill. Reg. _____, effective _____.

ILLINOIS STUDENT ASSISTANCE COMMISSION

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Section 2700.15 Incorporations by Reference

a) The Commission incorporates by reference 34 CFR 85, 237, 600, 653, 668, 674, 675, 676, 682 and 690 (July 1, 2008~~July 1, 2006~~). No incorporation by reference in this Section includes any later amendment or edition beyond the date stated. The Code of Federal Regulations is available online at: www.gpoaccess.gov.

b) Copies of the appropriate material are available for inspection at the Illinois Student Assistance Commission offices at:

1755 Lake Cook Road, Deerfield IL 60015-5209

500 West Monroe, Springfield IL 62704-1876

100 West Randolph, Suite 3-200, Chicago IL 60601-3219

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2700.20 Definitions

"Academic Level" – The classification of a student as a freshman, sophomore, junior, senior, or graduate student.

"Academic Year" – In relation to scholarship and grant programs, a twelve month period of time, normally from August or September of any year through August or September of the ensuing year. In relation to the Federal Family Education Loan Program, academic year is defined at Section 481(d)(2) of the Higher Education Act of 1965, as amended (HEA), and at 34 CFR 668.3.

"Alternative Loan" – Any educational loan made or purchased by ISAC other than a loan made pursuant to Title IV of the Higher Education Act of 1965, as amended (20 USC 1071 et seq.), or any other federal statute providing for federal insurance of education loans to borrowers.

"Applicant" – Any individual who requests ISAC consideration for a scholarship, grant, tuition waiver, or guaranteed or alternative loan.

"Approved High School" – *Any public high school located in this State; and any high school, located in this State or elsewhere (whether designated as a high*

school, secondary school, academy, preparatory school, or otherwise) which in the judgment of the State Superintendent of Education provides a course of instruction at the secondary level and maintains standards of instruction substantially the equivalent of those public high schools located in this State. (Section 10 of the Higher Education Student Assistance Act [110 ILCS 947/10])

"Armed Forces" – The United States Army, Air Force, Navy, Marines and Coast Guard.

"Blanket Certificate of Loan Guaranty" – A process that permits an eligible lender to make loans without receiving prior approval from ISAC for individual loans to eligible borrowers enrolled in eligible programs at eligible institutions, as authorized by Section 428(n) of the HEA.

"Chargeback" – Payment of tuition by the community college district of a student's residence to the community college district of a student's attendance. (See 110 ILCS 805/6-2.)

"Citizen" – One who, under the Constitution and laws of the United States, is a native-born or naturalized citizen of the United States of America.

"College Savings Bond" – A State of Illinois general obligation, zero coupon bond, issued pursuant to the Baccalaureate Savings Act as a long-term education savings instrument.

"Co-maker" – One of the two individuals who are joint borrowers either on a Federal PLUS Loan that was certified prior to January 1, 1995 or on any Federal Consolidation loan and who are equally liable for repayment of the loan. (See 34 CFR 682.200.)

"Commission" – The ten member Illinois Student Assistance Commission created by Section 15 of the Higher Education Student Assistance Act [110 ILCS 947/15].

"Compound Accreted Value" – An amount equal to the original amount plus an investment return accrued to the date of determination at a semiannual compounding rate that~~which~~ is necessary to produce the yield at maturity indicated on the Official Statement that was issued when the college savings bonds were sold. The "Compound Accreted Value at Maturity" will be equal to $5000 or an integral multiple thereof.

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"Concurrent Registration" – The simultaneous enrollment at two or more institutions.

"Consolidation" – A federal program under which a borrower may receive a single new loan that refinances one or more outstanding qualified education loans under new terms and conditions, as authorized by Section 428C of the HEA.

"Contractual Agreement" – The written agreement between an eligible institution and a school or organization that is not eligible for participation in ISAC-administered programs whereby the non-eligible institution provides part of the education program of students enrolled at the eligible institution, as codified in Section 2700.80. A contractual agreement differs from a consortium agreement, which is an agreement among two or more eligible institutions only.

"Correctional Officer" – An employee of the Illinois Department of Corrections (DOC) who is assigned to a security position with the Department, and who has responsibility for inmates of any correctional institution under the jurisdiction of the Department.

"Correspondence Course" – A home study course provided by an institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution, as defined at 34 CFR 600.2.

"Co-signer" – A person who is secondarily liable for the repayment of an Alternative Loan.

"Cost of Attendance" – For the purposes of ISAC's rules, this term is defined at Section 472 of the Higher Education Act of 1965, as amended (20 USC 108711).

"Cumulative Grade Point Average" – The average grade earned throughout a student's applicable secondary or postsecondary educational program. The calculation shall be consistent with the institution's established policy or practice and shall be the same as that completed for admission, placement or other similar purposes.

"Default Status" – The failure of a borrower to make an installment payment when due or to meet other terms of the promissory note as defined at 34 CFR 682.200.

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"Delinquency" – For the purposes of ISAC's rules, this term is defined at 34 CFR 682.411(b).

"Dependent Student" – A scholarship, loan, tuition waiver or grant applicant or recipient who is not classified as an independent student.

"Disbursement" – In relation to scholarship and grant programs, a disbursement occurs on the payment voucher date. In relation to the Federal Family Education Loan Program, disbursement is the process of transferring loan proceeds as defined at 34 CFR 682.200.

"Distance Education" – A learning and teaching mode characterized by the separation of place or~~and/or~~ time between instructor and student, which includes programs and courses offered by correspondence and telecommunications.

"ED" – The acronym for the United States Department of Education.

"Educational Institution" – Unless otherwise qualified, any secondary or postsecondary educational organization that enrolls students who participate in ISAC programs.

"Educational Lender" – An institution that meets the lender eligibility criteria outlined in 23 Ill. Adm. Code 2720.25 for FFELP Loans and 2721.40 for alternative loans.

"EFT" – The acronym for electronic funds transfer.

"Eligible Noncitizen" – A noncitizen who is eligible for federal student assistance pursuant to Section 484 of the Higher Education Act of 1965, as amended. (See 20 USC 1091.)

"Endorser" – A person who is secondarily liable for the repayment of a Federal PLUS Loan obligation.

"Enrolled" – The status of a student who has completed the institution's registration requirements and is attending classes.

"Executive Director" – The chief executive officer of ISAC.

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"Expected Family Contribution" – The amount the student and the student's family may be reasonably expected to contribute toward the student's postsecondary education. Expected Family Contribution is defined at Section 474 of the Higher Education Act (HEA) of 1965, as amended. (See 20 USC 1087nn.)

"FAFSA" – The acronym for the Free Application for Federal Student Aid.

"FAFSA Receipt Date" – The date reported by ED's processor as the date upon which it receives an applicant's initial FAFSA for an academic year. For paper FAFSA's sent through the U.S. Postal Service, this is the date of physical receipt at the processor, not the postmark date.

"Federal Regulations" – Refers to regulations promulgated by ED and codified at 34 CFR 600 et seq.

"FFELP" – The acronym for the Federal Family Education Loan Program, as authorized by Section 421 of the Higher Education Act, as amended, including subsidized and unsubsidized Federal Stafford Loans, Federal PLUS Loans, Federal SLS Loans and Federal Consolidation Loans.

"Fire Officer" – For the purposes of ISAC's rules, this term means a firefighter who is employed by, or in the voluntary service of, this State or any public entity in this State.

"Foreign Missionary" – An individual who is assigned duty outside of the United States by an organization that engages in educational, philanthropic, humanitarian or altruistic works. The missionary organization must be exempt from the payment of federal taxes and must have been engaged in placing foreign missionaries for at least five years. Examples of such missionary organizations include, but are not limited to, the following: Peace Corps, Evangelical Alliance Mission, etc.

"Full-time Student" – In relation to scholarship and grant programs, an individual enrolled for twelve or more credit hours, for either a semester or quarter term. In relation to the Federal Family Educational Loan Program, full-time student is defined at 34 CFR 668.2~~34 CFR 682.200~~.

"Gift Assistance" – Student assistance funds in the form of a scholarship, grant or tuition waiver, including, but not limited to, federal, State, institutional and private aid.

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"Good Moral Character" – An applicant is of good moral character if the applicant will benefit from postsecondary instruction and is allowed to enroll at an approved postsecondary institution.

"Graduating Class" – The students who will complete the high school's program of instruction and graduate within an academic year.

"Guaranteed Loan" – Loan assistance through the Federal Family Education Loan Program (FFELP) that~~which~~ includes the subsidized and unsubsidized Federal Stafford Loan, the Federal PLUS Loan, the Federal Supplemental Loans for Students (SLS), and the Federal Consolidation Loan programs.

"HEA" – The acronym for the Higher Education Act of 1965, as amended, and codified at 20 USC 1070 et seq.

"Half-time Student" – In relation to scholarship and grant programs, an individual enrolled for six or more credit hours (but fewer than twelve credit hours) for either a semester or quarter term. In relation to the Federal Family Education Loan Program, half-time student is defined at 34 CFR 668.2~~34 CFR 682.200~~.

"Holder" – An organization authorized by ED and ISAC to purchase or retain possession of guaranteed loans. These organizations operate as commercial and educational lenders or secondary markets and may purchase ISAC-guaranteed loans from approved lenders.

"IBHE" – The acronym for the Illinois Board of Higher Education, the administrative agency created by the Board of Higher Education Act [110 ILCS 947/205].

"IDAPP" – The acronym for ISAC's Illinois Designated Account Purchase Program as authorized by the Education Loan Purchase Program Law [110 ILCS 947/125 through 170].

"Independent Student" – For the purposes of ISAC's rules, an independent student is defined by Section 480 of the Higher Education Act of 1965, as amended by P.L. 110-84~~P.L. 109-171~~. (See 20 USC 1087vv.)

"Institution" – Unless otherwise qualified, any secondary or postsecondary educational organization that~~which~~ enrolls students who participate in ISAC

programs.

"Institution of Higher Learning" – An educational organization whose main campus is physically located in Illinois that:

provides at least a two-year program of collegiate study in liberal arts or sciences, or associate degree or both, directly applicable toward the attainment of a baccalaureate degree, or, a program in health education directly applicable toward the attainment of a certificate, diploma, or an associate degree; and

is operated:

by the State, or

publicly or privately, not for profit, or

for profit, provided it:

offers~~Offers~~ degree programs that~~which~~ have been approved by the IBHE for a minimum of three years under the Academic Degree Act, and

enrolls a majority of its students in these degree programs, and

maintains accredited status with the North Central Association of Colleges and Schools-Higher Learning Commission.

For otherwise eligible educational organizations that~~which~~ provide academic programs for incarcerated students, the term "institution of higher learning" shall specifically exclude academic programs for incarcerated students (Section 10 of the Higher Education Student Assistance Act). For eligible institutions with campuses in multiple states, the term "institution of higher learning" shall include only those campuses located in Illinois.

"Institution of Record" – The postsecondary institution at which a student is enrolled and seeking a degree or certificate. This institution assumes primary responsibility for certification of eligibility for ISAC-administered programs and

for requesting payment from ISAC.

"ISAC" – The acronym for the Illinois Student Assistance Commission, the administrative agency created by Section 15 of the Higher Education Student Assistance Act [110 ILCS 947/15] to administer student assistance programs.

"ISBE" – The acronym for the Illinois State Board of Education, the administrative agency created by the School Code [105 ILCS 5].

"Lender" – An organization authorized by ISAC to make educational loans to students.

"Mandatory Fees" – The charges assessed by an institution to each and every full-time student for each term. Application, graduation, laboratory, breakage, add/drop fees, and program administrative fees for out-of-state or foreign study are specifically excluded. For the purposes of ISAC's rules, tuition is not a mandatory fee.

"MAP" – The acronym for the Monetary Award Program administered by ISAC, as authorized by 110 ILCS 947/35 and codified at 23 Ill. Adm. Code 2735.

"Master Check" – A single check representing the loan proceeds for more than one borrower.

"Minority Student" – *A student who is either Black (a person having origins in any of the black racial groups in Africa); Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race); Asian American (a person with origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, including Pakistan, and the Pacific Islands, including, among others, Hawaii, Melanesia, Micronesia and Polynesia); or Native American (a person who is a member of a federally or state recognized Indian tribe, or whose parents or grandparents have such membership) and to include the native people of Alaska* (Section 50(a) of the Higher Education Student Assistance Act).

"Parent" – For the purposes of ISAC's rules, this term is defined at 34 CFR 668.2.

"Pell Grant" – A federal gift assistance program administered by ED in accordance with Section 411 of the Higher Education Act of 1965, as amended. (See 20 USC 1070a et seq.)

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"PLUS" – The federal program that~~which~~ provides loans to graduate students or parents of certain students, as authorized by Section 428B of the Higher Education Act of 1965, as amended (20 USC 1078-2) and Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175].

"Police Officer" – For the purposes of ISAC's rules, this term means a law enforcement officer who is employed by, or in the voluntary service of, this State or any public entity in this State.

"Qualified Applicant" – An individual who meets the eligibility requirements of the gift assistance program for which she/he is applying.

"Regular School Year" – An eight to nine month period of time that~~which~~ includes two semester terms or three quarter terms. The regular school year excludes summer terms. Terms that begin after April 15 and end before September 16 are considered summer terms.

"Remedial Courses" – The course work that prepares a student for study at the postsecondary level and is necessary for the student to pursue the eligible postsecondary program.

"Resident of Illinois" –

A dependent student is a resident of Illinois if the parent of the dependent-applicant, who is required by the instructions to complete the Free Application for Federal Student Aid (FAFSA), physically resides within the State of Illinois and Illinois is his or her true, fixed and permanent home.

An independent student is a resident of Illinois if the applicant physically resides within the State of Illinois (at the time of application), and has so resided for a period of 12 continuous, full months immediately prior to the start of the academic year for which assistance is requested and Illinois is his or her true, fixed and permanent home.

When an applicant does not qualify as a resident of Illinois under the preceding two paragraphs and the applicant is a member of the U.S. Armed Forces or a foreign missionary, or is the dependent or the spouse of

an individual who is a member of the U.S. Armed Forces or a foreign missionary, then the applicant's residency shall be determined in accordance with the following four paragraphs.

An applicant who is a member of the U.S. Armed Forces will be a resident of Illinois if the applicant physically resided in Illinois immediately prior to entering the U.S. Armed Forces, returned (or plans to return) to Illinois within six months after and including the date of separation and can demonstrate (pursuant to Section 2700.50(f) and (g)) that his/her domicile was the State of Illinois throughout such enlistment.

An applicant who is a foreign missionary will be a resident of Illinois if the applicant physically resided in Illinois for six continuous months immediately prior to entering missionary service, returned (or plans to return) to Illinois within six months after the conclusion of missionary service, and can demonstrate (pursuant to Section 2700.50(f) and (g)) that his/her domicile was the State of Illinois throughout such missionary service.

The dependent-applicant shall be a resident of Illinois notwithstanding the parents' temporary physical absence from Illinois provided the parents would be a resident of Illinois under the preceding two paragraphs.

The spouse-applicant shall be a resident of Illinois immediately upon physically occupying a dwelling within the State of Illinois provided the applicant can demonstrate that his/her absence from the State was the result of residing with the spouse during enlistment or missionary service outside of Illinois and that the spouse-applicant's domicile continues to be the State of Illinois.

"Rules" – The rules of ISAC codified at 23 Ill. Adm. Code: Subtitle A, Chapter XIX.

"Satisfactory Academic Progress" – An institutional policy that~~which~~ establishes minimum standards of academic performance. For purposes of ISAC-administered programs, the standards must be at least as stringent as those required by ED pursuant to Section 484 of the Higher Education Act of 1965, as amended. (See 20 USC 1091.)

"Service Academy" – *The U.S. Air Force Academy, the U.S. Coast Guard*

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Academy, the U.S. Military Academy or the U.S. Naval Academy (Section 30(a) of the Higher Education Student Assistance Act).

"SLS" – The acronym for the federal Supplemental Loans for Students Program, as authorized by Section 428A of the Higher Education Act, as amended (20 USC 1078-1). No SLS loans have been made for periods of enrollment beginning on or after July 1, 1994.

"Special Education" – A postsecondary educational program designed to teach persons how to meet the needs of all children designated as physically disabled, with specific learning disabilities, or requiring extraordinary special education services and facilities. (See 105 ILCS 5/14-1.02 and 7.20a.) These programs prepare persons for meeting the needs of children who exhibit disabilities or exceptional characteristics ranging from very mild to very severe. (See 23 Ill. Adm. Code 226, Special Education.) Such a program prepares a student to teach physically disabled children or children with learning disabilities. (See 105 ILCS 5/14-1.02 and 1.03a.)

"Stafford" – The federal subsidized and unsubsidized loan programs as authorized by Sections 427, 428 and 428H of the Higher Education Act, as amended (20 USC 1078).

"Student Beneficiary" – An individual designated as the recipient of a College Savings Bond Bonus Incentive Grant.

"Teacher Education Program" – An undergraduate postsecondary course of study that~~which~~, upon completion, qualifies a student to be certified as a pre-school, elementary or secondary teacher by a state board of education or its equivalent (including the Illinois State Board of Education). For a student who has completed less than four semesters/six quarters of postsecondary study, this includes a postsecondary course of study that~~which~~ leads to a teacher education program.

"Teacher Shortage Discipline" – An academic discipline in which a shortage of teachers exists in Illinois, as designated by the Illinois State Board of Education.

"Telecommunications Course" – A course offered principally through the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable microwave, satellite, audio conferencing, computer conferencing, and video cassettes or disks, as defined at 34 CFR 600.2.

"Term" – A unit of time for student attendance, including, but not limited to, a quarter or semester.

"Tuition" – The charge for instruction assessed by an institution.

"Verification" – Procedures implemented by postsecondary institutions to verify the eligibility of applicants. The procedures are established by 34 CFR 668 et seq. and by ISAC's rules.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2700.30 General Institutional Eligibility Requirements

a) ISAC Program Participation Agreement

1) All institutions shall execute an ISAC Program Participation Agreement in order to participate in ISAC gift assistance programs.

2) The ISAC Program Participation Agreement shall identify the ISAC programs under which the institution's students may receive benefits.

3) The ISAC Program Participation Agreement shall include provisions requiring institutions to comply with statutes, federal regulations and State rules.

4) The ISAC Program Participation Agreement may be modified or terminated in accordance with 23 Ill. Adm. Code 2790, Limitation, Suspension or Termination Proceedings.

b) With respect to ISAC student assistance programs, institutions shall develop and maintain procedures to verify the consistency and accuracy of information received from their enrolled recipients.

c) Institutions shall be subject to possible limitation, suspension or termination of eligibility for failure to comply with statutes, regulations, rules or procedures and for failure to maintain the standards required by this Section for initial participation. (See 23 Ill. Adm. Code 2790.)

d) Postsecondary institutions that~~which~~ participate in gift assistance programs shall

annually submit to ISAC a copy of their tuition refund policy. Such submissions shall not be considered ISAC approval of such policies.

e) Postsecondary institutions that~~which~~ participate in gift assistance programs shall annually report their tuition and fee charges, as well as initial MAP advance payment requests, to ISAC on or before June 1 preceding each academic year.

1) Failure to report any cost changes by the deadline will cause the prior year's charges to be used as part of the calculation process for gift assistance benefits. Failure to report the assessment of a fee charge by the deadline will result in that fee charge being ineligible for payment under ISAC gift assistance programs.

2) The report shall match specific fee charges with the gift assistance programs that~~which~~ may finance the fee. Such categorizations by the institution shall not be considered ISAC approval.

3) The Illinois National Guard Grant and the Illinois Veteran Grant (IVG) Programs may finance only a portion of certain fee charges. (See 23 Ill. Adm. Code 2730.30(a) and 2733.30(e).)

A) Example: One fee finances both tuition and text book expenses. Only the portion of the fee that~~which~~ is attributable to tuition expenses may be financed with program benefits.

B) Institutions with such a fee shall certify what percentage of the fee is eligible to be financed with program benefits. Certification shall be performed by the institution's chief fiscal officer.

f) Institutions shall submit additional reports, data and information to ISAC as may be requested. These inquiries include, but are not limited to, surveys, enrollment confirmations and evaluation instruments.

g) Additional institutional eligibility requirements are contained in subsequent Parts of ISAC's rules.

h) Postsecondary institutions may apply to participate in ISAC-guaranteed loan programs in accordance with 23 Ill. Adm. Code 2720.

i) Postsecondary institutions may apply to participate in ISAC gift assistance

programs in accordance with this subsection.

1) The Commission approves participation in ISAC gift assistance programs for an institution rather than for specific academic programs within an institution.

2) Prior to applying for participation in ISAC gift assistance programs, the institutional applicant must have authority to operate a postsecondary institution in Illinois. (See 23 Ill. Adm. Code 1030.)

3) Institutional applicants that are fully accredited by the North Central Association of Colleges and Schools-Higher Learning Commission and have degree-granting authority may be approved to participate in ISAC gift assistance programs provided the institution meets and maintains the requirements of subsections (i)(4)(C) and (D).

4) Public or private not for profit institutional applicants that do not meet the requirements of subsection (i)(3) may be approved to participate in ISAC gift assistance programs if the institution has:

A) obtained candidate status for North Central Association of Colleges and Schools-Higher Learning Commission~~North Central~~ accreditation.

B) applied for and is seeking degree-granting authority.

C) obtained at least three letters indicating the transferability of academic credit from the applicant institution to other institutions. The letters must be from institutions that~~which~~ are approved to participate in the Monetary Award Program (MAP) and are accredited by the North Central Association of Colleges and Schools-Higher Learning Commission.

D) an adequate number of qualified persons to administer their responsibilities under ISAC's rules. In determining whether an institution employs an adequate number of qualified persons, the Commission considers the number of students aided, the number of programs in which the institution participates, the number of applications evaluated, the amount of funds administered, and the financial aid delivery system used by the institution.

5) Institutional applicants must also supply ISAC with audited financial statements, prepared by an independent third party in accordance with generally accepted accounting principles, to establish financial responsibility. (See, e.g., 34 CFR 668.15.)

6) Once approved to participate in ISAC gift assistance programs by the Commission, an institution shall receive provisional eligibility for a minimum of five academic years. An institution with provisional eligibility must petition the Commission for full eligibility. Full eligibility will be granted if the institution meets the requirements of subsection (i)(3) ~~above~~ and if there are no outstanding audit exceptions.

j) As a condition of eligibility for participation in ISAC student assistance programs, postsecondary institutions shall have a valid Program Participation Agreement with ED (see Section 487 of the Higher Education Act of 1965, as amended (20 USC 1094)) and shall report their Office of Postsecondary Education Identification (OPE-ID) number to ISAC.

k) In order to begin and to continue participation in ISAC-administered student assistance programs, institutions must also demonstrate administrative capability and financial responsibility, as defined by federal regulations. (See, e.g., 34 CFR 668.15 & 668.16.) An institution's failure to meet and maintain those standards can lead to limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)

l) Institutions that have been assigned multiple main OPE-ID numbers will be considered separate entities by ISAC. Different campus codes associated with the same main OPE-ID number will not be considered separate entities.

m) An institution shall notify ISAC of its Federal Employer Identification Number (FEIN) in order to receive payment pursuant to any ISAC-administered program.

n) When an approved institution has a change of ownership resulting in a change of control, a change of location, or a change of name as defined by federal regulations, the institution's Program Participation Agreement with ED may be terminated. After an institution has undergone a change of status affecting its participation in any Title IV federal student financial aid programs, the institution may have its eligibility with ISAC reinstated by the execution of a new Program Participation Agreement with ED (see, e.g., 34 CFR 600.30 et seq.) and by the

submission and approval of a new application for participation with ISAC.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2700.50 Determining Applicant Eligibility

a) The evaluation of applicant eligibility is the responsibility of both the institution and ISAC.

b) No applicant is announced eligible for assistance by ISAC unless the application establishes prima facie eligibility. ISAC consults with other appropriate state and federal agencies in the process of reviewing application data. Such agencies include, but are not limited to, the U.S. Department of Education (ED), U.S. Internal Revenue Service (IRS), U.S. Citizenship and Immigration Services Bureau (USCIS), Illinois Department of Healthcare and Family Services, Illinois Department of Revenue, and Illinois Department of Children and Family Services.

c) When requesting payment for ISAC gift assistance programs, the postsecondary institution is certifying~~must certify~~ that the applicants are eligible for the assistance. If an institution subsequently determines a student is no longer eligible for all or part of the awarded assistance, the institution must inform ISAC and submit the appropriate refund within 60 days after the receipt of payment or the end of a term, whichever is later.

d) When requesting payment of benefits, institutions shall certify (in accordance with ISAC's rules or~~and/or~~ federal regulations) whether an applicant is eligible based upon enrollment in a particular academic program.

e) If an institution erroneously certifies an applicant to be eligible for ISAC gift assistance programs, ISAC will recover the erroneous payment from the institution. Any student who obtained ISAC-administered funds by submitting inaccurate information to an institution must tender restitution to the institution to be eligible for ISAC assistance at that institution.

f) If an applicant is selected for verification in conjunction with federal student assistance, that applicant shall also be verified for ISAC-administered programs. A selected applicant must be verified for ISAC programs even if the applicant is ineligible for federal student assistance.

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g) Because ED verification procedures do not include procedures for verifying a student as a resident of Illinois, the following provisions shall be followed by the institution.

1) Residency status shall be verified if the institution has any information that indicates the applicant may not be a resident of Illinois.

2) Residency status shall be verified for each applicant who is selected for verification and has changed dependency status to become an independent student.

3) Residency verification shall not be required for an applicant who received payment of a MAP award during the previous academic year.

4) Residency verification shall not be required for an applicant who was enrolled in an ISAC-approved MAP institution or an ISAC-approved Illinois high school (see Section 2700.30) for the preceding consecutive 12 months prior to the start of the academic year for which assistance is requested.

5) Data from one or more of the documents listed below may provide proof that an applicant (or parent) is an Illinois resident, as defined in Section 2700.20. For an independent student applicant, the dates recorded on the documents must indicate the applicant has resided in Illinois for the relevant 12 continuous, full months.

A) A valid State or federal income tax return

B) Illinois high school or college transcript

C) Illinois driver's license

D) Utility or rent bills in the applicant's (or parent's) name

E) Illinois auto registration card

F) Residential lease in the applicant's (or parent's) name

G) Wage and tax statements (IRS Form W-2)

H) Statement of benefits history from the Illinois Department of Healthcare and Family Services

I) State of Illinois identification card issued by the Secretary of State

J) Statement of benefits from the Illinois Department of Employment Security

K) Statement of benefits from the Social Security Administration

L) Illinois voter's registration card

M) Property tax bill~~.~~

N) IRS Form 1099-Miscellaneous Income Statements

6) If an applicant is a resident of Illinois, but the institution cannot document this fact, the applicant or the institution may verify residency through ISAC's appeal process. (See Section 2700.70.)

h) Institutions may request first term payment even though verification is not yet complete. If, after verification, an ISAC payment adjustment is appropriate, institutions must submit the appropriate refund. If verification is not completed within 60 days after the conclusion of the regular school year, the institution shall return the first term payment to ISAC. For other than the first term of eligibility in an academic year, the verification process must be completed before the institution may request payment.

i) When an institution adjusts an applicant's eligibility pursuant to Title IV, Part F, of the Higher Education Act of 1965, as amended (20 USC 1087kk et seq.), the institution shall retain documentation that~~which~~ demonstrates the appropriateness of the adjustment.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Federal Family Education Loan Program (FFELP)

2) Code Citation: 23 Ill. Adm. Code 2720

3)

Section Numbers:	Proposed Action:
2720.25	Amendment
2720.30	Amendment
2720.41	Amendment
2720.50	Amendment
2720.70	Amendment
2720.80	Amendment

4) Statutory Authority: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175]; Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USCA 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In addition to making minor technical and grammatical changes throughout this Part, and correcting prior errors and omissions, ISAC proposes the following substantive amendments:

Numerous citations referencing Federal Regulations and the Higher Education Reconciliation Act of 2005 (HERA) have been updated throughout this Part. Section 2720.50(e)(2) has been amended to reflect current federal regulation changes to the late disbursement provision. In addition, "guarantee fee" and "student guarantee fee" have been changed to "federal default fee" in Sections 2720.70(e) and (g) to reflect current federal regulation changes.

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

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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 create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 3706
email: lhynes@isac.org

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2720
FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP)

SUBPART A: FEDERAL LOAN PROGRAMS: THE FEDERAL STAFFORD LOAN PROGRAM, FEDERAL PLUS PROGRAM, FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM, AND FEDERAL CONSOLIDATION LOAN PROGRAM

Section
2720.5 Summary and Purpose
2720.6 Definitions (Repealed)
2720.10 Eligibility for ISAC Loan Guarantees
2720.20 Lender Eligibility
2720.25 Educational Lender Eligibility
2720.30 Institutional Eligibility
2720.35 Holder Eligibility
2720.40 Procedures for Obtaining a Guaranteed Loan
2720.41 One-Lender Requirement
2720.42 One-Holder Requirement
2720.50 Procedures for Disbursement, Delivery and Repayment
2720.55 Federal Consolidation Loan Program
2720.60 Default Aversion Assistance
2720.70 Reimbursement Procedures
2720.80 Federal Default Fee
2720.90 Guarantee Transfers

SUBPART B: ILLINOIS DESIGNATED ACCOUNT PURCHASE PROGRAM (IDAPP)

Section
2720.105 Summary and Purpose
2720.120 IDAPP Eligible Loans
2720.130 IDAPP Eligible Lenders

SUBPART C: ISAC ORIGINATED LOANS

Section

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2720.200 ISAC Originated Consolidation Loans
2720.210 Illinois Opportunity Loan Program (IOP)
2720.220 Federal Family Education Loan Program (FFELP) Loans

2720.APPENDIX A Required Activities of Educational Lenders (Repealed)

AUTHORITY: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175]; Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USC 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; amended at 5 Ill. Reg. 8698, effective August 17, 1981; emergency rule and emergency repealer at 6 Ill. Reg. 7558, 7573, effective June 9, 1982, for a maximum of 150 days; new rules adopted at 6 Ill. Reg. 13799, effective October 25, 1982; old rules repealed at 6 Ill. Reg. 15254, effective December 3, 1982; emergency amendment at 7 Ill. Reg. 9942, effective August 8, 1983, for a maximum of 150 days; codified at 7 Ill. Reg. 13309; amended at 8 Ill. Reg. 876, effective January 9, 1984; amended at 8 Ill. Reg. 7286, effective May 18, 1984; amended at 8 Ill. Reg. 17006, effective September 5, 1984; amended at 9 Ill. Reg. 20796, effective January 1, 1986; amended at 11 Ill. Reg. 3181, effective January 29, 1987; emergency amendment at 11 Ill. Reg. 13669, effective August 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14103, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 18370, effective October 23, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20989, effective January 1, 1988; amended at 12 Ill. Reg. 6971, effective April 1, 1988; amended at 12 Ill. Reg. 11520, effective July 1, 1988; emergency amendment at 12 Ill. Reg. 15221, effective September 15, 1988, for a maximum of 150 days; emergency expired February 12, 1989; amended at 13 Ill. Reg. 2872, effective February 16, 1989; amended at 13 Ill. Reg. 8630, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1720 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2720 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17855; emergency amendment at 14 Ill. Reg. 4266, effective March 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10553, effective July 1, 1990; amended at 14 Ill. Reg. 10941, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 18769, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 4060, effective February 28, 1992; amended at 16 Ill. Reg. 11224, effective July 1, 1992; emergency amendment at 17 Ill. Reg. 2055, effective February 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 10506, effective July 1, 1993; amended at 18 Ill. Reg. 10254, effective July 1, 1994; emergency amendment at 18 Ill. Reg. 15636, effective October 15, 1994, for a maximum of 150 days; emergency expired March 13, 1995; amended at 19 Ill. Reg. 6215, effective April 15, 1995; amended at 19 Ill. Reg. 8320, effective July 1, 1995; amended at 20 Ill. Reg. 9147, effective July

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1, 1996; amended at 21 Ill. Reg. 11038, effective July 18, 1997; amended at 22 Ill. Reg. 11051, effective July 1, 1998; amended at 23 Ill. Reg. 7537, effective July 1, 1999; amended at 24 Ill. Reg. 9101, effective July 1, 2000; amended at 25 Ill. Reg. 8369, effective July 1, 2001; amended at 26 Ill. Reg. 9998, effective July 1, 2002; amended at 27 Ill. Reg. 10326, effective July 1, 2003; amended at 28 Ill. Reg. 9135, effective July 1, 2004; amended at 29 Ill. Reg. 9897, effective July 1, 2005; amended at 31 Ill. Reg. 9496, effective July 1, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART A: FEDERAL LOAN PROGRAMS:
THE FEDERAL STAFFORD LOAN PROGRAM, FEDERAL PLUS PROGRAM,
FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM,
AND FEDERAL CONSOLIDATION LOAN PROGRAM

Section 2720.25 Educational Lender Eligibility

a) Educational lenders must meet the eligibility requirements of institutions as outlined in Section 2720.30, Institutional Eligibility, and must meet the eligibility requirements established for lenders as outlined in Section 2720.20, Lender Eligibility. Also, educational lenders must comply with all federal regulations related to the origination, disbursement and servicing of a loan. (See, e.g., 34 CFR 682.601 and 682.602.)

b) Institutions may be approved as lenders if approved by ED and if the following requirements are met.

1) The specific materials to be provided by an institution in seeking approval as an eligible lender are:

A) An audited, certified and preferably unqualified annual financial statement prepared by a firm of certified public accountants (CPA). The statement must cover a period of no less than 12 months and be no more than 12 months old at the time of submission. The CPA firm must express an acceptable opinion on the statement, and the statement shall consist of no less than a balance sheet, a statement of profit and loss, and all attendant notes thereto;

B) An institutional catalog;

C) A statement of the institution's default/delinquency experience as a

lender in the Federal Perkins Loan Program, FFELP, or~~and/or~~ Federal Insured Student Loan (FISL) Program (20 USC~~USCA~~ 1071 et seq.);

D) A statement explaining the source of the institution's lending capital; and

E) Any other materials that~~which~~ might be requested by ISAC to show the institution's potential qualifications as a lender.

2) In addition to the above materials, a school that~~which~~ is organized on a for-profit basis will be requested to submit a:

A) copy of its student contract;

B) description of its admission/sales staff and their functions;

C) statement of the institution's drop-out/completion rates;

D) sample of the institution's advertising materials; and

E) description or copies of student complaints filed with the institution in the last two years. In addition to these materials, ISAC will secure a Dun and Bradstreet Report on the institution, a statement from the Better Business Bureau with regard to any consumer complaints, and a statement from the institution's accrediting association.

3) The applications for eligible educational lender status in the programs and the supporting documentation shall be reviewed by ISAC staff. The applicant institution shall be informed of its annual lending limit, as well as any additions to the lender agreement that~~which~~ ISAC determines are prudent in individual instances to protect the default record of ISAC. If the institution is approved as an educational lender, it will execute an Educational Lender Agreement that~~which~~ will include:

A) the institution's agreement to comply with statutes, federal regulations and State rules;

B) a statement of agreement including, or referring to, the list of required activities of educational lenders as outlined in 34 CFR 682.601 and 682.602;

C) a statement of agreement including, or referring to, the federal regulations with respect to loan disbursements and refund application;

D) a statement of agreement including, or referring to, the federal regulations definition of "due diligence"; and

E) an expiration date of such lending contract that~~which~~ shall not be later than the end of the first full fiscal year following the negotiation of the contract, at which time its renewal shall be considered by ISAC.

c) A loan guarantee shall be canceled if the educational lender fails to comply with federal regulations, statutes, ISAC rules or procedures, provided such failure impairs ISAC's ability to recover the expense of reimbursing the educational lender for the defaulted loan.

d) ISAC conducts compliance reviews to determine if approved educational lenders are complying with federal regulations, statutes and rules.

e) Educational lenders that do not maintain the standards of administrative capability or financial responsibility demonstrated in their original applications for participation, or required by federal regulations, may be subject to administrative limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2720.30 Institutional Eligibility

a) Institutional eligibility requirements are specified in federal regulations. Eligible postsecondary institutions include universities, colleges, graduate schools, schools of nursing, business, trade, technical and vocational schools. Correspondence institutions/programs are not eligible.

b) Institutions must have executed a Program Participation Agreement with ED in

order to participate in ISAC-guaranteed loan programs. (See 34 CFR 668.14.)

c) An institution may not engage in loan origination activities. This prohibition shall not apply if the institution has an ED-approved Origination Agreement on file with ISAC and the institution has been approved as an educational lender. (See Section 2720.25 of this Part and 34 CFR 682.601 and 682.602.)

d) Approved institutions shall provide ISAC with the current enrollment status of students whom the institution has certified as eligible borrowers in accordance with federal regulations. (See 34 CFR 682.610(c).)

e) Applicant and approved institutions must demonstrate administrative capability and financial responsibility, as defined by federal regulations, in order to begin and to continue participation in ISAC-guaranteed loan programs. (See, e.g., 34 CFR 668.14, 68.15 and 668.16.)

f) Institutions wishing to participate in ISAC-guaranteed loan programs shall submit an application that~~which~~ shall include, but not be limited to: documentation from the U.S. Department of Education (ED) and the state in which it operates demonstrating authorization to offer educational programs; previous audit and compliance reviews conducted by other guarantors and ED; proof of accreditation; audited financial statements; student catalogs; promotional materials; documentation relating to student withdrawal rates; and other similar information requested by ISAC to show the institution's qualifications for participation. Participation will be decided by an examination of application materials and a determination of compliance with federal laws and regulations and State statutes and rules. Institutions may appeal an administrative decision denying participation or limiting eligibility in accordance with ISAC appeal procedures. (See 23 Ill. Adm. Code 2700.70.) Institutions denied participation shall be eligible to reapply one year from the date of the initial ISAC letter denying eligibility.

g) Institutions not maintaining the standards of administrative capability or financial responsibility demonstrated in their original applications for participation, or required by federal regulations, may be subject to administrative limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)

h) A foreign postsecondary institution, located outside the United States, is eligible to participate in ISAC-guaranteed loan programs provided it produces evidence to

ISAC of current eligibility with ED (e.g., Program Participation Agreement, Institutional Eligibility Notice, etc.) or documentation of such eligibility is available directly from ED. (See 34 CFR 668.15(h).)

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2720.41 One-Lender Requirement

a) All of a borrower's outstanding ISAC-guaranteed loans must be made by the same lender, subject to the following conditions:

1) ISAC will issue a loan guarantee to a commercial lender provided that lender agrees to make all types of Federal Family Education Loan Program (FFELP) Loans to the borrower that~~which~~ the borrower requests and is eligible to receive, and:

A) the loan is the borrower's first ISAC-guaranteed loan;

B) the loan is a subsequent loan and the commercial lender has issued all of the borrower's previous ISAC-guaranteed loans; or

C) the loan is a subsequent loan and the commercial lender holds or has purchased all outstanding ISAC-guaranteed loans for that borrower from previous commercial lenders~~lender(s)~~, in accordance with Section 2720.42 of this Part.

2) ISAC will issue a loan guarantee to an educational lender provided that:

A) the lender agrees to make all types of FFELP Loans to the borrower that~~which~~ the borrower requests and is eligible to receive;

B) the lender is an educational institution at which the borrower is currently enrolled; and

C) the borrower has previously made a good faith effort to obtain a loan from a commercial lender pursuant to federal regulations. (See 34 CFR 682.602.)~~(See 34 CFR 682.601.)~~

b) The requirements of this Section shall not apply if:

1) the outstanding loans are held by a lender that~~which~~ has been declared insolvent by a regulatory agency, has terminated its agreement with ISAC or has withdrawn from participation in FFELP;

2) ISAC is informed by the borrower, the institution or its agent that the borrower has provided authorization to have subsequent loans issued by a different lender;

3) the borrower is requesting a subsequent loan and the lender has made a previous ISAC-guaranteed loan to that borrower for that loan program with a guarantee date prior to July 1, 1993; or

4) the borrower's outstanding loans were~~loan(s) was~~ made in accordance with Section 2720.40(c) of this Part, by a lender-of-last-resort.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2720.50 Procedures for Disbursement, Delivery and Repayment

a) Disbursement, delivery and repayment procedures are specified in federal regulations. (See 34 CFR 682.206, 34 CFR 682.207, 34 CFR 682.209, and 34 CFR 682.604.)

b) Prior to disbursement, the borrower shall execute a common ED-approved promissory note for the principal and interest on the loan. The lender shall retain an original or true and exact copy of the promissory note. (See 34 CFR 682.414.)

c) The lender shall transmit to ED any and all statements and reports necessary to obtain federal interest payments on the borrower's behalf. The lender shall not collect or attempt to collect from the borrower or ISAC any portion of the interest on the loan that~~which~~ is payable by ED.

d) Except for loans pursuant to Section 2720.55, or loans made under a Blanket Certificate of Loan Guaranty agreement, the lender shall not disburse the proceeds of any loan on the borrower's behalf unless and until the lender shall have received from ISAC evidence of a guarantee. The lender shall inform ISAC of all disbursement dates.

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e) Federal Stafford and Federal PLUS Loan proceeds shall be transmitted directly to the institution.

1) Federal Stafford Loan checks shall be payable to the student borrower unless the institution requires all Stafford loan checks to be co-payable to the borrower and the institution. Federal PLUS Loan checks shall be co-payable to the institution and the borrower. Federal Stafford or Federal PLUS Loan funds disbursed either via EFT or by Master Check to the institution shall include information identifying the names, Social Security Numbers and the loan amounts of the borrowers who are receiving a portion of the disbursement, and, in the case of a Parent PLUS Loan, the names and the Social Security Numbers of the students on whose behalf the parents are borrowing.

2) Loan proceeds must be disbursed to the institution and delivered to the borrower no later than 180~~120~~ days after the end of the loan period or 180~~120~~ days after the date on which the student ceased to be enrolled at least half-time, whichever is earlier. ~~In cases where the student is not at fault, a late disbursement may be made beyond the 120 day period if the institution makes such a request and it is approved by ED.~~ If the loan proceeds are not delivered pursuant to this subsection, the school must request that the loan be canceled and must return any loan proceeds. (See 34 CFR 668.164(g).)

3) If the student has withdrawn from enrollment and federal regulations require the institution to submit a refund to the lender, either electronically or in the form of a check payable to the lender on behalf of the borrower, the institution shall provide simultaneous written notice to the borrower of the refund.

A) If the institution fails to issue a timely refund, as defined by federal regulations (see 34 CFR 682.607(c) and 668.22(j)), the institution shall pay penalty interest.

B) The penalty interest shall equal the total amount of interest and special allowance generated by the principal value of the refund amount. The penalty interest shall be computed from the date the refund was due until the date the refund was issued.

C) The penalty interest shall be paid to the lender or subsequent holder.

f) The borrower shall have the right to prepay without penalty the whole or any part of a loan guaranteed hereunder.

g) The lender or holder shall notify the borrower of the repayment options available, as specified in 34 CFR 682.209. The lender or holder shall send a repayment schedule to a FFELP borrower no less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower.

h) The lender or holder shall notify ISAC of payment in full or prepayment in full by the borrower.

i) In accordance with federal regulations, the lender or holder may extend the maturity date of any note.

j) Lenders or holders may exercise administrative forbearances, which do not require the agreement of the borrower, as authorized by Section 428(c)(3)(C) of the Higher Education Act of 1965, as amended, and by federal regulations. (See 34 CFR 682.211.)

k) Borrowers are entitled to deferments, which extend the maturity date of any note, under conditions established by federal regulations. (See 34 CFR 682.210.)

l) ISAC provides lenders or holders with the ED-approved common forms necessary for servicing their guaranteed loan portfolio (e.g., deferment forms, mandatory forbearance forms).

m) No note shall be sold or transferred by the lender except to an ISAC-approved lender, an ISAC-approved holder, or ISAC.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2720.70 Reimbursement Procedures

a) The lender or holder shall request reimbursement from ISAC within 60 days from the date the lender or holder receives a completed request for loan cancellation or

discharge due to death, total and permanent disability, attendance at a school that closes, false certification by a school of a borrower's eligibility for a loan, unpaid refunds, or child care provider or teacher loan forgiveness, in accordance with federal regulations and the Higher Education Act of 1965, as amended. (See, e.g., 34 CFR 682.215, 682.402 and 682.409.)

b) Requests for default reimbursement must be submitted to ISAC within the time frames specified in, and the lender or holder shall be reimbursed in accordance with, federal regulations and the Higher Education Act of 1965, as amended. In the case of a default on a Federal PLUS Loan, the borrower, co-maker and endorser must meet the default criteria contained in federal regulations.

c) The lender or holder must request ISAC reimbursement for a bankruptcy claim in accordance with federal regulations and the Higher Education Act of 1965, as amended. (See, e.g., 34 CFR 682.402(f).)~~34 CFR 682.402.)~~ The request for reimbursement must be submitted within 30 days after the lender's or holder's receipt of notice that collection on the debt is stayed, or 15 days upon notice of an adversary proceeding for undue hardship. A copy of the restraining order and the appropriate papers must be included. In the case of a bankruptcy involving a Federal PLUS Loan, the borrower, co-maker and endorser must meet the bankruptcy criteria contained in federal regulations.

d) Prior to reimbursement, the lender or holder must certify compliance with federal due diligence requirements and subsection (h) of this Section.

e) Prior to reimbursement, the lender or holder must have remitted the federal default fee~~guarantee fee~~ established by Section 2720.80.

f) The lender or holder shall forward to ISAC any payments made by or on behalf of the borrower after default reimbursement and shall advise ISAC of any subsequent information received concerning the borrower. Prior to reimbursement, all original notes or true and exact copies of original notes must be properly endorsed and submitted to ISAC. If the notes have been lost or erroneously stamped "Paid in Full," the lender or holder shall execute a Hold Harmless Agreement with ISAC.

g) No fee or charge to the borrower, other than the maximum interest rate prescribed by ED and the collection charges outlined in federal regulations (see 34 CFR 682.202(f) and (g)), including the federal default fee~~student guarantee fee~~, and the

federal loan origination fee, shall be contracted for or received by the lender.

h) The lender or holder shall make a proper collection effort in accordance with acceptable practices of prudent lending institutions including, but not limited to, the collection activities required by federal regulations. (See, e.g., 34 CFR 682.402, 682.411 and 682.412.)

i) ISAC shall collect the outstanding amount on the reimbursed guaranteed loan. If the borrower refuses to retire the debt, ISAC shall follow the requirements of federal regulations, including, but not limited to, offsets of federal income tax refunds and other payments made by the federal government to the borrower. (See 34 CFR 682.410(b)(6).)~~34 CFR 682.410.)~~

j) Should a borrower refuse to retire the debt, ISAC shall direct the State Comptroller to offset any payment from the State Treasurer to the borrower. The funds offset shall be remitted to ISAC and credited against the debt.

1) All offsets shall be processed in accordance with 74 Ill. Adm. Code 285.

2) ISAC shall not direct an offset if the borrower has maintained a satisfactory repayment record. (See 23 Ill. Adm. Code 2700.40(a)(1).)

3) ISAC shall notify the Office of the Comptroller that a borrower is eligible to be offset. ISAC may provide additional notice of subsequent offsets for the same debt. The Comptroller shall notify the borrower that the Comptroller is required to hold all eligible payments until the loan is paid in full. Should the borrower dispute the debt, a protest must be filed with the Office of the Comptroller within 30 days after and including the date of the notice. If the requested relief is granted, the funds offset shall be returned to the borrower.

4) Funds eligible to be offset include, but are not limited to, State income tax refunds and the wages of State employees.

k) ISAC shall provide a borrower with an opportunity for an administrative review of the legal enforceability or past-due status of the loan obligation after it pays a default claim but before it reports the default to a credit bureau or assesses collection costs against the borrower, in accordance with federal regulations (34 CFR 682.410(b)(5)(ii)(C)).

l) ISAC may garnish the disposable pay of a borrower if the individual is not currently making required payments, in accordance with Section 488A of the Higher Education Act, as amended.

m) ISAC requires the lender or holder to submit a request for an increase in claim payment within 90 days after receiving the claim payment. ISAC will provide the lender or holder with a determination on the increase in claim payment within 90 days after receiving the request and supporting documentation.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2720.80 Federal Default Fee

a) ISAC must charge a federal default fee on each loan guaranteed on or after July 1, 2006. The fee must be collected from the borrower or from any non-federal source. If assessed to the borrower, the fee must be deducted proportionally from each disbursement of the loan. The fee must be remitted to ISAC by the lender no less frequently than monthly.

b) The amount of the federal default fee collected on each loan shall be equal to one percent of the principal amount of the loan (see 20 USC 1071 et seq.).

c) Refunds of any federal default fees assessed the borrower shall be made in accordance with federal regulations. (See 34 CFR 682.401(b)(10)(v) & (vi).)

d) The federal default fees shall be deposited in the Federal Student Loan Reserve Fund. In accordance with federal regulations, a guaranty agency shall not use such proceeds for incentive payments to lenders and shall only use these proceeds for costs incurred as outlined in 34 CFR 682.419(c).

(Source: Amended at 32 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois National Guard (ING) Grant Program

2) Code Citation: 23 Ill. Adm. Code 2730

3)

Section Numbers:	Proposed Action:
2730.30	Amendment
2730.40	Amendment

4) Statutory Authority: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)]

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments:

In Section 2730.30(a) and (b) the list of eligible and non-eligible fees is being updated to more accurately reflect the fees specified in the statute. Language has been added to Section 2730.30(j) permitting schools to require students to provide proof of residency for the purposes of determining in-district or out-of-district payment. Section 2730.40(b) has been modified from "shall certify" to "is certifying" to clarify the action that is occurring in Section 2730.20(d), Applicant Eligibility.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: 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)]

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

847/948-8500, ext. 3706
email: lhynes@isac.org

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2730
ILLINOIS NATIONAL GUARD (ING) GRANT PROGRAM

Section
2730.10 Summary and Purpose
2730.20 Applicant Eligibility
2730.30 Program Procedures
2730.40 Institutional Procedures

AUTHORITY: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)].

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; rules repealed at 6 Ill. Reg. 8239, effective June 30, 1982; new rules adopted at 6 Ill. Reg. 8413, effective June 30, 1982; codified at 7 Ill. Reg. 10877; amended at 8 Ill. Reg. 17016, effective September 5, 1984; amended at 9 Ill. Reg. 20827, effective January 1, 1986; amended at 11 Ill. Reg. 3202, effective January 29, 1987; amended at 12 Ill. Reg. 11531, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1730 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2730 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17857; amended at 14 Ill. Reg. 10567, effective July 1, 1990; amended at 16 Ill. Reg. 11254, effective July 1, 1992; amended at 17 Ill. Reg. 10563, effective July 1, 1993; amended at 18 Ill. Reg. 10303, effective July 1, 1994; amended at 20 Ill. Reg. 9187, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11119, effective July 18, 1997; amended at 22 Ill. Reg. 11100, effective July 1, 1998; amended at 24 Ill. Reg. 9148, effective July 1, 2000; amended at 25 Ill. Reg. 8406, effective July 1, 2001; amended at 26 Ill. Reg. 10013, effective July 1, 2002; amended at 27 Ill. Reg. 10338, effective July 1, 2003; amended at 29 Ill. Reg. 9904, effective July 1, 2005; amended at 30 Ill. Reg. 11623, effective July 1, 2006; amended at 32 Ill. Reg. _____, effective _____.

Section 2730.30 Program Procedures

a) The recipient is exempt from paying the following:

1) tuition;

2) registration fees;

3) graduation fees; ~~and~~

4) general activity fees; ~~.~~

5) matriculation fees; and

6) term fees.

b) The recipient is responsible for payment of other fees, including the following:

1) book rental fees;

2) laboratory and supply fees;

3) air flight fees;

4) hospital and health insurance fees;

5) room and board;

6) parking fees;

7) student union fees;

8) athletic fees; ~~and~~

9) proficiency or placement exams and other similar fees; and ~~.~~

10) service fees.

c) Benefits are applicable to both undergraduate and graduate enrollment. There is no minimum credit-hour enrollment requirement. Benefits are applicable for noncredit courses.

d) Benefits are limited to use only at Illinois public senior universities and at any Illinois public community college.

e) Within the constraints of appropriation levels, two semester or three quarter term payments and one summer term payment are made directly to the institution after

ILLINOIS STUDENT ASSISTANCE COMMISSION

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it officially certifies to ISAC that the applicant has registered and is attending classes. No seminars or other special terms are covered under the grant. Summer term is considered the final term of the academic and fiscal year.

f) Benefits are limited to the equivalent of four academic years of full-time enrollment.

1) To determine the amount of eligibility a recipient has used, credit hours (and noncredit hours for which benefits are used) will be converted to "eligibility units" according to the following chart:

Number of Hours	Semester School	Quarter School
12 or more hours	12 units	8 units
9 - 11.99 hours	9 units	6 units
6 - 8.99 hours	6 units	4 units
3 - 5.99 hours	3 units	2 units
0 - 2.99 hours	1 unit	1 unit

2) Recipients may continue to reapply and accumulate up to 120 units, after which point eligibility for program benefits will cease. However, full program benefits may be extended for one additional term if the recipient has accumulated fewer than 120 eligibility units but does not have enough units remaining for the number of hours in which she/he is enrolled for the term.

3) If an eligible recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive a grant for costs incurred up to the term award provided the institution's tuition refund policy indicates the recipient has incurred charges in the amount of the claim.

4) In the event that the recipient withdraws from a course or courses prior to the end of a term, a refund will be made according to the institution's refund withdrawal policy and eligibility units will be adjusted accordingly.

5) The eligibility units used for a noncredit course shall be the same as the number of eligibility units used for a credit course having the same number of total faculty contact hours.

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g) If a current year applicant is discharged, transferred to the inactive Illinois National Guard, or has membership extended by the Illinois National Guard, ISAC will send a revised eligibility letter or ineligibility letter to the applicant. In the case of discharge, a copy of the letter will be sent to the institution of record.

h) Except as otherwise provided in this Part, if a recipient ceases to be an active status member of the Illinois National Guard during a term, benefits cease, and the student is responsible for the unpaid costs attributed to the remainder of the term. If an applicant becomes eligible during a term, in accordance with Section 2730.20(b), benefits will be prorated for that portion of the term for which the applicant is eligible, provided the application is submitted by the deadlines. Costs are prorated on the basis of the institution's scheduled days of instruction minus institutionally scheduled holidays and examination periods.

Calculation: Total tuition cost divided by total instructional days = cost per day x days of eligibility = total proration.

i) If the recipient of a grant awarded under this Part ceases to be a member of the Illinois National Guard, but has been active in the Illinois National Guard for at least five consecutive years and had his or her studies interrupted by being called to federal active duty for at least six months, then that recipient shall continue to be eligible for a grant for one year after his or her discharge from the Illinois National Guard, provided that the recipient has not already received the exemption from tuition and fees for the equivalent of four years of full-time enrollment under this Part.

j) Out-of-state residents will receive tuition and applicable fee benefits equivalent to those received by in-state residents at the Illinois institution; recipients attending out-of-district community colleges will receive tuition and applicable fee benefits equivalent to those at the in-district rate. Recipients shall not be responsible for paying the difference between in-state and out-of-state tuition nor will they be responsible for paying the difference between in-district and out-of-district tuition. Institutions are permitted to require documentation of residency in order to determine in-district or out-of-district payment.

k) If a student is eligible for both an Illinois National Guard Grant and a MAP grant, the Illinois National Guard benefits must be used first. A student cannot decline an Illinois National Guard Grant in favor of using MAP.

l) If a recipient of the grant fails to complete his or her military obligation according

to the agreement, all proceeds received must be repaid to the Illinois Department of Military Affairs. DMAIL will collect the funds, which will be used by ISAC for the purpose of this Part.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2730.40 Institutional Procedures

a) The institution must establish a qualified applicant's initial eligibility before requesting payment from ISAC. A valid Illinois National Guard Grant eligibility letter may be used for this purpose.

b) When submitting payment requests, the institution is certifying~~shall certify~~ that the recipient meets the grade point average requirements of Section 2730.20(d)~~(c), Applicant Eligibility~~.

c) Institutions must report the total number of hours for which payment is being requested (including credit and noncredit hours) so that ISAC can accurately track the recipient's use of eligibility units.

d) Payment information will be sent each term to the institution no earlier than the application deadline date for that term. Payment claims must be submitted no later than 30 calendar days after payment information has been sent to the institution by ISAC. Supplemental payment claims must be submitted to ISAC no later than 45 calendar days after the original payment information was sent to the institution with the exception of summer term supplements which must be submitted by the same deadline as the original payment claim for summer term. All payment claims received by ISAC after the designated dates will be paid or prorated during the fiscal lapse period (July 1 through August 31) following the conclusion of the fiscal year. To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests except for summer term must be received by ISAC no later than July 1. Summer term payment requests must be received no later than July 31.

e) Claims will be paid as follows:

1) first semester and first quarter claims received by the designated deadline date will be paid, or prorated if funding is insufficient to pay all claims in full;

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

2) if funds remain after first semester and first quarter claims are paid, then second semester and second and third quarter claims received by the designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full;

3) if funds still remain after the preceding claims are paid, summer term claims received by the designated deadline date will be paid, or prorated if remaining funds are insufficient to pay all summer claims in full; and

4) in the event that funds are not exhausted by summer term payments, claims received after the designated deadline dates will be paid or prorated.

5) Timely claims for the difference between in-district/state and out-of-district/state tuition for recipients who do not qualify for chargebacks will be considered for payment at the same time, and in the same priority order, as all other timely claims, in accordance with the provisions of this subsection.

f) Payments on behalf of a recipient will be made to only one institution per term. For any institution that has a concurrent registration opportunity, the same payment policy will be in effect as that used in the Monetary Award Program. (See: 23 Ill. Adm. Code 2735.40(h).)

g) Institutions are required to reconcile payments received through this program. Any payments received by the institution that are determined in the reconciliation to be refunds payable to ISAC are to be processed and returned to ISAC no later than 60 days following the end of the academic term. Should the payment arrive after the end of the term, the institution will have 60 days following receipt of payment to complete the reconciliation process and return any refunds to ISAC.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Veteran Grant (IVG) Program

2) Code Citation: 23 Ill. Adm. Code 2733

3)

Section Numbers:	Proposed Action:
2733.30	Amendment
2733.40	Amendment

4) Statutory Authority: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)]

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments:

Language has been added to Section 2733.30(f) permitting schools to require students to provide proof of residency for the purposes of determining in-district or out-of-district payment. Section 2733.40(c) has been modified from "shall certify" to "is certifying" to clarify the action that is occurring in Section 2733.20(d), Applicant Eligibility.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: 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)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

847/948-8500, ext. 3706
email: lhynes@isac.org

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2733
ILLINOIS VETERAN GRANT (IVG) PROGRAM

Section
2733.10 Summary and Purpose
2733.20 Applicant Eligibility
2733.30 Program Procedures
2733.40 Institutional Procedures

AUTHORITY: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)].

SOURCE: Emergency rule adopted at 10 Ill. Reg. 14322, effective August 20, 1986 for a maximum of 150 days; emergency expired January 16, 1987; adopted at 11 Ill. Reg. 3207, effective January 29, 1987; amended at 12 Ill. Reg. 11536, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1733 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2733 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17858; amended at 14 Ill. Reg. 10571, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 15613, effective October 11, 1991, for a maximum of 150 days; emergency expired March 9, 1992; emergency amendment at 15 Ill. Reg. 18778, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 6880, effective April 14, 1992; amended at 16 Ill. Reg. 11261, effective July 1, 1992; amended at 17 Ill. Reg. 10570, effective July 1, 1993; amended at 18 Ill. Reg. 10309, effective July 1, 1994; amended at 20 Ill. Reg. 9200, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11139, effective July 18, 1997; amended at 22 Ill. Reg. 11114, effective July 1, 1998; amended at 23 Ill. Reg. 7575, effective July 1, 1999; amended at 24 Ill. Reg. 9166, effective July 1, 2000; amended at 25 Ill. Reg. 8418, effective July 1, 2001; amended at 26 Ill. Reg. 10020, effective July 1, 2002; amended at 27 Ill. Reg. 10342, effective July 1, 2003; emergency amendment at 28 Ill. Reg. 12932, effective September 15, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2462, effective February 1, 2005; amended at 29 Ill. Reg. 9912, effective July 1, 2005; amended at 30 Ill. Reg. 11646, effective July 1, 2006; amended at 32 Ill. Reg. _____, effective _____.

Section 2733.30 Program Procedures

a) An applicant must apply to ISAC for assistance under this Part. ISAC will issue a Notice of Eligibility to each qualified applicant.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

b) To receive an Illinois Veteran Grant, a qualified applicant must notify the institution of his or her eligibility no later than the last scheduled day of classes for the term for which a grant is requested.

c) Benefits are applicable to both undergraduate and graduate enrollment. There are no minimum credit hour enrollment requirements and benefits are applicable for noncredit courses.

d) Benefits are limited to use only at Illinois public universities and Illinois public community colleges.

e) Costs exempted by the IVG:

1) The recipient is exempt from paying costs as follows:

A) tuition and fees that meet the definition of tuition (see 23 Ill. Adm. Code 2700.20);

B) mandatory fees (see 23 Ill. Adm. Code 2700.20).

2) A qualified applicant who has previously received benefits under this Part for a non-mandatory fee shall continue to receive benefits covering such fees while he or she is enrolled in a continuous program of study. The qualified applicant shall no longer receive a grant covering non-mandatory fees if he or she fails to enroll during an academic term, unless he or she is serving on federal active duty. The non-mandatory fees include the following:

A) instructional fees not meeting the definition of tuition;

B) application fees;

C) graduation and transcript fees;

D) proficiency exam, College Level Exam Program (CLEP), placement exam and similar fees;

E) off-campus and other extension course fees;

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

F) air flight instructor and athletic fees; and

G) matriculation, service and other registration type fees.

f) Recipients attending out-of-district community colleges receive tuition and fee benefits equivalent to those at the in-district rate. Recipients shall not be responsible for paying the difference between in-district and out-of-district tuition. Institutions are permitted to require documentation of residency in order to determine in-district or out-of-district payment.

g) Benefits are limited to the equivalent of four academic years of full-time enrollment, which is measured in eligibility units. Recipients may accumulate up to 120 eligibility units.

1) To determine the amount of eligibility a recipient has used, credit hours (and noncredit hours for which benefits are used) will be converted to eligibility units according to the following table:

Number of Hours	Semester Term	Quarter Term
12 or more hours	12 units	8 units
9 - 11.99 hours	9 units	6 units
6 - 8.99 hours	6 units	4 units
3 - 5.99 hours	3 units	2 units
up to 2.99 hours	1 unit	1 unit

2) Full program benefits may be extended for one additional term if the recipient has accumulated fewer than 120 eligibility units but does not have enough units remaining for the number of hours in which he or she ~~s/he~~ is enrolled for the term.

3) In the event that a recipient withdraws from a course prior to the end of a term, a refund will be made according to the institution's refund withdrawal policy and eligibility units will be adjusted accordingly.

4) The eligibility units used for a noncredit course shall be the same as the number of eligibility units used for a credit course having the same number of faculty contact hours.

5) If, for any reason, the U.S. Department of Veteran Affairs (VA) terminates or suspends a veteran educational benefits program, assistance under this Part shall cease six months following this action. This does not include veterans who have begun receiving educational benefits under this Part. In the event that the VA resumes terminated or suspended educational benefits, all current rules will be enforced.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2733.40 Institutional Procedures

a) If a student is eligible for both an IVG and a Monetary Award Program (MAP) grant, the IVG benefits must be used first. A student cannot decline IVG benefits in favor of using MAP.

b) A notice of eligibility from ISAC must be used by the institution to establish a qualified applicant's initial eligibility.

c) Institutions shall submit a payment request to ISAC. When submitting payment requests, the institution is certifying~~shall certify~~ that the qualified applicant meets the requirements of Section 2733.20(d).

d) Institutions must report the total number of hours for which payment is being requested (including credit and noncredit hours) so that ISAC can accurately track the recipient's use of eligibility units.

e) The deadlines for submission of complete payment requests shall be September 15 for summer terms; January 15 for first term; and May 25 for second semester/second and third quarter. All claims, including supplemental claims, must be received by ISAC no later than July 1.

f) The reimbursement to institutions for Illinois Veteran Grants is contingent upon available funding. Should General Assembly appropriations be insufficient to pay all claims, institutions will be reimbursed in accordance with this subsection:

1) summer term claims received by the deadline date designated in subsection (e) will be paid, or prorated if funding is insufficient to pay all claims in full;

2) if funds remain after summer term claims are paid, first semester and first

quarter claims received by the designated deadline date will be paid, or prorated if funding is insufficient to pay all claims in full;

3) if funds remain after first semester and first quarter claims are paid, then second semester/second and third quarter claims received by the designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full;

4) if funds remain after second semester/second and third quarter claims are paid, claims received by ISAC after the designated deadline dates will be paid or prorated; and

5) timely claims for the difference between in-district/state and out-of-district/state tuition for recipients who do not qualify for chargebacks will be considered for payment at the same time, and in the same priority order, as all other timely claims, in accordance with the provisions of this subsection (f).

(Source: Amended at 32 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Higher Education License Plate (HELP) Grant Program

2) Code Citation: 23 Ill. Adm. Code 2737

3)

Section Numbers:	Proposed Action:
2737.10	Amendment
2737.20	Amendment
2737.30	Amendment

4) Statutory Authority: Implementing Section 37 of the Higher Education Student Assistance Act [110 ILCS 947/37] and Section 3-629 of the Illinois Vehicle Code [625 ILCS 5/3-629] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to accommodate Public Act 095-0444 to maintain consistency in grants awarded for students attending eligible colleges and universities in the contiguous states. Moneys collected by the State Treasurer for the issuance of special collegiate license plates will be distributed through the Illinois Student Assistance Commission to participating colleges and universities for the sole purpose of scholarship grant awards to Illinois residents.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Public Act 095-0444, effective August 27, 2007

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 Objectives: 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)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

847/948-8500, ext. 3706
email: lhynes@isac.org

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2737
HIGHER EDUCATION LICENSE PLATE (HELP) GRANT PROGRAM

Section
2737.10 Summary and Purpose
2737.20 Applicant Eligibility
2737.30 Program Procedures
2737.40 Institutional Procedures

AUTHORITY: Implementing Section 37 of the Higher Education Student Assistance Act [110 ILCS 947/37] and Section 3-629 of the Illinois Vehicle Code [625 ILCS 5/3-629] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 23 Ill. Reg. 7571, effective July 1, 1999; amended at 32 Ill. Reg. _____, effective _____.

Section 2737.10 Summary and Purpose

a) The Secretary of State is authorized to issue special collegiate license plates on behalf of eligible, participating institutions of higher learning. A portion of the proceeds of special~~such~~ license plates sold by the Secretary is appropriated annually to ISAC for the purposes of administering a grant program for students attending degree-granting, not-for-profit private colleges and universities located in Illinois or a contiguous state.

b) This Part establishes rules that govern the HELP Program. Additional rules and definitions are contained in General Provisions~~,~~ (23 Ill. Adm. Code 2700).

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2737.20 Applicant Eligibility

a) A qualified applicant shall be:

1) a citizen or eligible noncitizen;

2) a resident of Illinois;

3) enrolled at a degree-granting, not-for-profit private college or university located in Illinois or a contiguous state that participates in the collegiate license plate program through the Secretary of State; and

4) able to demonstrate financial need according to a nationally recognized need analysis system.

b) A recipient of assistance under this program who applies for a renewal award must, in addition to continuing to meet the criteria specified in subsection (a) of this Section, be maintaining satisfactory academic progress as determined by the institution.

c) Eligibility is restricted to undergraduate students. Recipients must not have received a baccalaureate degree.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2737.30 Program Procedures

a) All applicants must complete and file the form that the U.S. Department of Education (ED) designates as an application for federal student financial aid for the purposes of determining financial need.

b) ISAC shall be notified in January of each year of all moneys deposited by the Secretary of State into the University Grant Fund, on behalf of each participating institution, from the issuance or renewal of collegiate license plates during the previous calendar year. The Secretary of State shall deposit $25 per each set of license plates issued or renewed into the University Grant Fund on behalf of the institution.

c) Each State fiscal year, all moneys deposited into the University Grant Fund shall, subject to appropriation, be distributed~~appropriated~~ to ISAC to make reimbursements to participating private colleges and universities for grants made pursuant to this Part.

ILLINOIS STUDENT ASSISTANCE COMMISSION

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d) A recipient may receive the equivalent of 10 semesters/15 quarters of full-time award payments.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: State Scholar Program

2) Code Citation: 23 Ill. Adm. Code 2760

3)

Section Numbers:	Proposed Action:
2760.20	Amendment
2760.30	Amendment

4) Statutory Authority: Implementing Section 25 and authorized by Section 20 (f) of the Higher Education Student Assistance Act [110 ILCS 947/25 and 20(f)]

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing an initiative to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments:

This Part is being amended to update the standardized test names. The ACT and SAT have been changed to reflect their correct names and the Prairie State Achievement Exam (PSAE) has been added. Section 2760.20(b) has been changed to clarify that there are now three standardized tests instead of two and that a student may take a test more than one time. Also, Section 2760.30(a) has been amended to allow ISAC to request the submission of academic data in an approved format.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a

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State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 3706
email: lhynes@isac.org

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2760
STATE SCHOLAR PROGRAM

Section
2760.10 Summary and Purpose
2760.20 State Scholar Eligibility
2760.30 Program Procedures

AUTHORITY: Implementing Section 25 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/25 and 20(f)].

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; amended at 4 Ill. Reg. 16, p. 118, effective April 7, 1980; rules repealed, new rules adopted at 5 Ill. Reg. 7251, effective June 26, 1981; amended at 6 Ill. Reg. 8413, effective June 30, 1982; codified at 7 Ill. Reg. 10878; amended at 9 Ill. Reg. 20877, effective January 1, 1986; amended at 11 Ill. Reg. 3242, effective January 29, 1987; amended at 11 Ill. Reg. 14137, effective August 10, 1987; amended at 13 Ill. Reg. 8654, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1760 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2760 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17868; amended at 14 Ill. Reg. 10589, effective July 1, 1990; amended at 16 Ill. Reg. 11321, effective July 1, 1992; amended at 17 Ill. Reg. 10624, effective July 1, 1993; amended at 18 Ill. Reg. 10346, effective July 1, 1994; amended at 19 Ill. Reg. 8395, effective July 1, 1995; amended at 20 Ill. Reg. 9251, effective July 1, 1996; Old Part repealed and New Part adopted at 21 Ill. Reg. 11222, effective July 18, 1997; amended at 22 Ill. Reg. 11170, effective July 1, 1998; amended at 24 Ill. Reg. 9201, effective July 1, 2000; amended at 29 Ill. Reg. 9928, effective July 1, 2005; amended at 31 Ill. Reg. 9516, effective July 1, 2007; amended at 32 Ill. Reg. _____, effective _____.

Section 2760.20 State Scholar Eligibility

a) To be considered for the State Scholar Program, a high school student shall:

1) demonstrate superior academic potential as measured by test scores and high school records;

2) be a United States citizen or eligible noncitizen;

ILLINOIS STUDENT ASSISTANCE COMMISSION

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3) be a resident of Illinois;

4) rank in the upper half of his/her high school class at the end of the third semester prior to graduation from high school (normally the sixth semester); and

5) attend an approved high school.

b) To be considered for the State Scholar Program, a student must take ~~either~~ the ACT Assessment, ~~or~~ the College Board's SAT ~~I:~~ Reasoning Test, or the Prairie State Achievement Exam (PSAE) during the third or fourth semester prior to graduation from high school (e.g., for a student attending high school for the traditional eight semesters, the exam must be taken during the fifth or sixth semester).

1) A student may take one or a combination of these~~either or both~~ examinations during the designated period. A student may also take the same standardized test more than once.

2) All scores from such tests taken during the designated period must be submitted to ISAC.

3) If a student submits scores from multiple examinations taken during the designated period, ISAC will use the highest score.

4) When a student submits scores to ISAC, the student must report his/her academic level at the time the test was taken.

c) ISAC will accept supplementary score reports of tests taken during the designated period upon the student's authorization to the test service. Such authorization by the student must be received by ISAC before August 1.

d) Students who, for any reason, are unable to take a test on a regular testing date should make special arrangements to be tested in accordance with the procedures of the testing service. Any ~~such~~ special arrangements must take into account the test score submission deadline in subsections (b) and (c) of this Section.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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Section 2760.30 Program Procedures

a) In order for its students to be considered for the State Scholar Program, a high school is to submit, in a format approved by ISAC, ~~provide to ISAC~~ class ranks as of the third semester prior to graduation for students who desire to be considered for the Program. For high schools that cannot provide class ranks, non-weighted grade point averages as of the third semester prior to graduation must be provided.

1) Class ranks are calculated so that the class rank for the lowest grade point average (GPA) equals the total number of students being ranked.

Example: Class Rank	GPA
1	99.3
2	98.9
2	98.9
4	98.1
5	97.9
5	97.9
7	97.4

2) The equivalent term rank shall be provided for students planning to graduate in other than the traditional four years (see Section 2760.20(b)).

b) Test scores submitted in accordance with this Part shall be converted to an Illinois Standard Test Score as follows:

1) The ACT composite score ~~Assessment Composite Score~~ shall be the Illinois Standard Test Score.

2) SAT ~~I~~ critical reading and math scores shall be added, and then converted to the Illinois Standard Test Score using the table below.

Illinois Standard Test Score Table

Illinois Standard Test Score	SAT ~~I~~ Critical Reading + Math	ACT or PSAE Composite
36	1590 to 1600	36

35	1570 to 1580	35
34	1540 to 1560	34
33	1510 to 1530	33
32	1480 to1500	32
31	1450 to 1470	31
30	1420 to 1440	30
29	1380 to 1410	29
28	1340 to 1370	28
27	1310 to 1330	27
26	1270 to 1300	26
25	1240 to 1260	25
24	1200 to 1230	24
23	1160 to 1190	23
22	1120 to 1150	22
21	1090 to1110	21
20	1060 to 1080	20
19	1020 to 1050	19
18	980 to 1010	18
17	940 to 970	17
16	900 to 930	16
15	850 to 890	15
14	800 to 840	14
13	750 to 790	13
12	660 to 740	12
11	580 to 650	11
10	520 to 570	10
9	460 to 510	9
8	400 to 450	8

c) High school class ranks submitted in accordance with this Part shall be converted to an Illinois Standard Rank Score as follows:

1) First, determine the percentile of the class rank for each student in accordance with the following formula:

Percentile = [Size of Class MINUS (Rank in Class minus .5)] divided by Size of Class

2) Then, use the table below to convert a percentile class rank to the Illinois Standard Rank Score.

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Percentile	Illinois Standard Rank Score
99.75 - 99.99	30
99.54 - 99.74	29
99.19 - 99.53	28
98.62 - 99.18	27
97.73 - 98.61	26
96.42 - 97.72	25
94.53 - 96.41	24
91.93 - 94.52	23
88.50 - 91.92	22
84.14 - 88.49	21
78.82 - 84.13	20
72.58 - 78.81	19
65.55 - 72.57	18
57.94 - 65.54	17
50.00 - 57.93	16

d) An Illinois Weighted Selection Score for each student shall be computed by adding the Illinois Standard Test Score to the Illinois Standard Rank Score.

e) In any academic year, the number of State Scholars is approximately equal to ten percent of the estimated total number of Illinois high school graduates. ISAC annually establishes a minimum Weighted Selection Score to yield this result.

f) Notwithstanding the previous provisions in this Section, any student nominated by his or her school shall be designated a State Scholar if that student achieves a score at or above the 95th percentile on the ACT~~ Assessment examination~~, or the equivalent ~~thereof~~ on a comparable examination, regardless of that student's class rank.

g) A Certificate of Achievement and congratulatory letter are issued for each State Scholar.

h) A listing of State Scholars shall be available upon request to colleges, members of the General Assembly and to the media.

i) Mailing labels of State Scholars' names shall be available, at cost, to Illinois colleges, universities and associations of Illinois colleges. Payment must be

received by ISAC at the time the mailing labels are ordered. Requestors of labels shall provide written assurance to ISAC that the labels will not be resold or released to others in any manner.

j) High school officials or student candidates shall have a period of 60 days following the announcement of the State Scholars to appeal a student's status. (See: 23 Ill. Adm. Code 2700.70, Appeal Procedures.)

k) If an appeal concerning an applicant's eligibility is received, ISAC shall request the high school verify the reported data. If the conflict remains, ISAC shall conduct an audit of the high school's records in accordance with 23 Ill. Adm. Code 2700.60.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Illinois Future Teacher Corps (IFTC) Program

2) Code Citation: 23 Ill. Adm. Code 2764

3) Section Number: 2764.30 — Proposed Action: Amendment

4) Statutory Authority: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)]

5) A Complete Description of the Subjects and Issues Involved: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to clarify issues that have arisen during the previous year. We also are continuing efforts to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments:

A change is proposed in Section 2764.30(b)(1) to clarify the availability of applications for this program. In Section 2764.30(c)(5) language has been added to more accurately describe priority processing for purposes of awarding.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, Illinois 60015

847/948-8500, ext. 3706
email: lhynes@isac.org

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2764
ILLINOIS FUTURE TEACHER CORPS (IFTC) PROGRAM

Section
2764.10 Summary and Purpose
2764.20 Applicant Eligibility
2764.30 Program Procedures
2764.40 Institutional Procedures

AUTHORITY: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)].

SOURCE: Emergency rules adopted at 19 Ill. Reg. 976, effective February 1, 1995, for a maximum of 150 days; emergency expired on June 30, 1995; adopted at 19 Ill. Reg. 11367, effective August 1, 1995; amended at 20 Ill. Reg. 9141, effective July 1, 1996; old Part repealed at 21 Ill. Reg. 11027 and new Part adopted at 21 Ill. Reg. 11029, effective July 18, 1997; amended at 22 Ill. Reg. 11043, effective July 1, 1998; amended at 24 Ill. Reg. 9095, effective July 1, 2000; amended at 27 Ill. Reg. 10395, effective July 1, 2003; emergency amendment at 27 Ill. Reg. 14860, effective September 10, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1749, effective January 25, 2004; amended at 28 Ill. Reg. 9162, effective July 1, 2004; amended at 30 Ill. Reg. 11687, effective July 1, 2006; amended at 32 Ill. Reg. _____, effective _____.

Section 2764.30 Program Procedures

a) All applicants must complete and file the form ~~which~~ the U.S. Department of Education (ED) designates as an application for federal student financial aid for the purpose of determining the Expected Family Contribution (EFC) that~~which~~ is used as a selection criterion for this award. (See Section 483 of the Higher Education Act of 1965, as amended (20 USC 1070a).)

b) A completed ISAC application for the IFTC Program must be postmarked on or before March 1 immediately preceding the academic year for which the scholarship is being requested, in order to receive priority consideration for an

award.

1) Applications are available at qualified institutions of higher learning, ISAC's Web site, and ISAC's Springfield, Deerfield and Chicago offices. ~~ISAC applications are available from qualified institutions of higher learning, State legislative and Congressional offices, and ISAC's Springfield, Deerfield and Chicago offices.~~

2) ISAC will make renewal applications available to all qualified students who were awarded assistance under this Part during the preceding academic year.

3) If the student section of an ISAC application is incomplete, ISAC will notify the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will be considered for processing as of the date when the application is complete and received at ISAC's Deerfield office.

c) Selection of Recipients

1) ISAC shall select the recipients from among qualified applicants who filed timely applications based on a combination of the following criteria:

A~~1~~) cumulative grade point averages, prioritized from the highest to the lowest. All grade point averages will be converted to a four-point scale;

B~~2~~) Expected Family Contribution (EFC), from the lowest to the highest;

C~~3~~) minority students shall receive priority consideration; and

D~~4~~) recipients of assistance under this Part during the previous academic year shall receive first priority consideration provided the student:

i~~A~~) continues to maintain a cumulative grade point average of no less than 2.5 on a 4.0 scale;

ii~~B~~) maintains his or her status as a qualified applicant, as outlined in Section 2764.20(a)~~ of this Part, Applicant Eligibility~~;

iii~~C~~) maintains satisfactory academic progress as determined by the institution; and

iv~~D~~) has submitted an application on a timely basis.

2~~5~~) Preference may also be given to qualified applicants who promise to teach in a hard-to-staff school or are enrolled in teacher shortage disciplines, which shall include early childhood education.

d) If all other criteria are equal, priority consideration will be given to the qualified applicant who submitted his or her completed application to ISAC on the earliest date.

e) A recipient may receive up to 4 semesters/6 quarters of scholarship assistance under this program.

f) Scholarship funds are applicable toward two semesters/three quarters of half-time and full-time study within an academic year.

g) The total number of scholarships awarded in a given fiscal year is contingent upon available funding.

h) To the extent necessary to administer this program within the limits of the State appropriation, the Commission may adjust the priority consideration factors and scholarship amounts established by this Section.

i) ISAC shall publish guidelines for the awarding of IFTC scholarships.

j) Notice of eligibility shall be sent by ISAC to each qualified applicant who is selected to receive an IFTC scholarship. A notice will be sent by ISAC to each qualified applicant who is not selected to receive an IFTC scholarship.

k) Prior to receiving scholarship assistance for any academic year, the qualified applicant must sign a Teaching Agreement/Promissory Note that is submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following

stipulations:

1) the recipient pledges to teach, on a full-time basis, for a period of not less than five years and in accordance with any additional commitment to teach in a teacher shortage discipline or~~and/or~~ at a hard-to-staff school, as applicable;

2) the recipient shall begin teaching within one year following completion of the postsecondary education degree or certificate program for which the scholarship was awarded, and shall teach on a continuous basis for the required period of time;

3) the teaching requirement will be fulfilled at a nonprofit Illinois public, private or parochial preschool, or an Illinois public elementary or secondary school and if the award made under this Part was for teaching at a hard-to-staff school, the school must qualify for teacher loan cancellation under section~~Section~~ 465(a)(2)(A) of the HEA (see 20 USC 1087ee);

4) if the teaching requirement is not fulfilled, the scholarship converts to a loan and the recipient must repay the entire amount of the scholarships prorated according to the fraction of the teaching obligation not completed, plus interest at a rate equal to five percent and, if applicable, reasonable collection fees;

5) the recipient agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.); and

6) the recipient promises to use the proceeds of the scholarship for educational expenses.

l) A recipient of a scholarship awarded under this Part shall not be in violation of the agreement entered into pursuant to Section 2764.30(k) during period in which the recipient:

1) serves, for not more than three years, as a member of the United States Armed Forces; or

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2) is enrolled full-time in a graduate course of study related to the field of teaching at an institution of higher learning; or

3) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a qualified physician; or

4) is actively seeking but unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (k)(3) ~~of this Section~~ for one continuous period not to exceed two years, and is able to provide evidence of that fact; or

5) is taking additional courses, on at least a half-time basis, needed to obtain certification as a teacher in Illinois; or

6) is fulfilling teaching requirements associated with other programs administered by ISAC if he or she cannot concurrently fulfill them in a period of time equal to the length of the teaching commitment.

m) If a recipient is required to repay any portion of the scholarship, the repayment period shall be completed within ten years after the scholarship converts to a loan. This ten-year period may be extended if the recipient:

1) serves, for not more than three years, as a member of the United States Armed Forces; or

2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician; or

3) is pursuing a graduate course of study and is enrolled on a full-time basis for one continuous period of time not to exceed three years; or

4) is seeking and unable to find full-time employment for one continuous period not to exceed two years and is able to provide evidence of that fact; or

5) withdraws from a course of study leading to certification/approval in a teacher shortage discipline, but is enrolled at least half-time as an undergraduate for one continuous period of time not to exceed three years.

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n) During the time a recipient qualifies for any of the extensions listed in subsection (m)~~ of this Section~~, he or she shall not be required to make payments and interest shall not accrue.

o) A recipient shall enter repayment status on the earliest of the following dates:

1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to certification as a teacher, but not until six months have elapsed after the cessation of at least half-time enrollment in such a course of study;

2) the date the recipient informs ISAC that he or she does not plan to fulfill the teaching obligation; or

3) the day after the latest date upon which the recipient must have begun teaching after completing the postsecondary education for which the scholarship was awarded.

p) A recipient shall not be required to repay the amount of the scholarships received if he or she becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see, e.g., 34 CFR 653.42(k)(1)), or if his or her representative provides ISAC with a death certificate or other evidence that the recipient has died.

q) Renewal recipients may receive a subsequent award even if their discipline is no longer on the approved list of teacher shortage disciplines.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: College Savings Bond Bonus Incentive Grant (BIG) Program

2) Code Citation: 23 Ill. Adm. Code 2771

3)

Section Numbers:	Proposed Action:
2771.20	Amendment
2771.30	Amendment
2771.40	Amendment

4) Statutory Authority: Implementing and authorized by Section 8 of the Baccalaureate Savings Act [110 ILCS 920/8]

5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part provide clarification as to the enrollment requirements of the student beneficiary and the timeframe during which complete applications are accepted at ISAC. Language also has been added in Section 2771.30(a) that describes priority processing for the purposes of awarding.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: 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)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes
Agency Rules Coordinator

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 3706
email: lhynes@isac.org

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: This rulemaking was not summarized on the January 2008 Regulatory Agenda because the Commission did not anticipate amending it at the time the Regulatory Agenda was filed.

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2771
COLLEGE SAVINGS BOND BONUS INCENTIVE GRANT (BIG) PROGRAM

Section
2771.10 Summary and Purpose
2771.20 Applicant Eligibility
2771.30 Program Procedures
2771.40 Institutional Procedures
2771.APPENDIX A Table of Grant Amounts

AUTHORITY: Implementing and authorized by Section 8 of the Baccalaureate Savings Act [110 ILCS 920/8].

SOURCE: Emergency rules adopted at 15 Ill. Reg. 15800, effective October 21, 1991, for a maximum of 150 days; emergency expired on March 19, 1992; adopted at 16 Ill. Reg. 6873, effective April 14, 1992; amended at 18 Ill. Reg. 10246, effective July 1, 1994; amended at 19 Ill. Reg. 8312, effective July 1, 1995; amended at 20 Ill. Reg. 9136, effective July 1, 1996; Old Part repealed and New Part adopted at 21 Ill. Reg. 11018, effective July 18, 1997; amended at 22 Ill. Reg. 11035, effective July 1, 1998; amended at 23 Ill. Reg. 7532, effective July 1, 1999; amended at 24 Ill. Reg. 9090, effective July 1, 2000; amended at 25 Ill. Reg. 8364, effective July 1, 2001; amended at 27 Ill. Reg. 10417, effective July 1, 2003; amended at 29 Ill. Reg. 9948, effective July 1, 2005; amended at 32 Ill. Reg. _____, effective _____.

Section 2771.20 Applicant Eligibility

a) A bondholder shall:

1) be able to furnish documentation that~~which~~ demonstrates that he or she~~s/he~~ has continuously owned the Illinois college savings bonds~~bond(s)~~ for at least the 12 months preceding the date of maturity or, for ~~an~~ Illinois college savings bonds~~bond(s)~~ with an original maturity date of less than 12 months, that he or she~~s/he~~ has owned the bonds~~bond(s)~~ for at least the six months preceding the date of maturity, unless the bonds~~bond(s)~~ were acquired by gift or under the laws of descent and distribution; and

2) use at least 70 percent of the bond proceeds for costs incident to

enrollment that~~which~~ are reasonably incurred by the student beneficiary during an academic year, including tuition and fees, room and board, books and supplies, child care expenses, laundry, travel, and other personal expenses related to attendance at the eligible institution of higher learning.

b) A student beneficiary shall be:

1) designated by a bondholder as the recipient of a grant pursuant to this Part;

2) the beneficiary of at least 70 percent of the bond proceeds paid at maturity;

3) the beneficiary of not more than $25,000 worth of bond proceeds in any single academic year; and

4) enrolled or accepted for enrollment on at least a half-time basis at an eligible non-profit institution of higher learning that~~which~~ is not organized solely for the purpose of religious instruction.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2771.30 Program Procedures

a) Application Procedures

1) Applications for a BIG shall be available from the Illinois Student Assistance Commission (ISAC) and eligible non-profit institutions of higher learning.

2) A complete application for BIG assistance shall include certifications from: the bondholder, the student beneficiary and the Registrar of the institution of higher learning at which the student beneficiary is enrolled or accepted for enrollment.

3) A bondholder or a student beneficiary must submit a BIG application no earlier than August 1~~between August 1 and May 30~~ of the academic year for which assistance is being requested. Applications will be accepted until such time ISAC determines that all funds are committed or until May 30 of the academic year for which assistance is being requested,

whichever is earlier~~All grants under this program are subject to sufficient annual appropriations for this program by the General Assembly~~.

4) All grants under this program are subject to sufficient annual appropriations by the General Assembly. If appropriations are insufficient to provide all qualified applicants with an award, available funds shall be allocated on the basis of the dates that the complete applications are received in ISAC's Deerfield office.

5~~4~~) ISAC may require applicants to provide documentation verifying that the bondholder owned the bonds for the requisite length of time.

6~~5~~) One student beneficiary may be designated for each bond redeemed. In cases in which~~where~~ two individuals jointly own a college savings bond, only one student beneficiary may be designated.

b) Application Certifications

1) The bondholder shall certify that:

A) the aggregate compound accreted value at maturity of the college savings bonds~~bond(s)~~ was not more than $25,000;

B) at least 70 percent of the proceeds of the college savings bonds~~bond(s)~~ have been or will be used for educational expenses incurred by the student beneficiary during an academic year;

C) the student named on the application has been designated as the beneficiary of the bond proceeds;

D) no other student has been designated as the student beneficiary for the same college savings bond;

E) the information provided on the application with regard to the bonds is true and correct, including the date on which the bonds~~bond(s)~~ were issued, the date on which the bonds~~bond(s)~~ were acquired and the date on which the bonds~~bond(s)~~ matured; and

F) the preceding certifications are being provided for the academic

year in which the application is being submitted.

2) The student beneficiary shall certify that:

A) his or her address, Social Security Number and other identifying information is accurate;

B) at least 70% of the proceeds of the College Savings Bonds will be used for educational expenses;

C) he or she is enrolled or accepted for enrollment at an eligible non-profit institution of higher learning;

D) he or she will use the BIG proceeds to finance educational expenses that~~which~~ are reasonably incurred during an academic year, including tuition and fees, room and board, books and supplies, child care expenses, laundry, travel and other personal expenses related to attendance at the institution of higher learning; and

E) he or she will not use the BIG proceeds to finance costs incurred in an academic program of divinity for any religious denomination or in a course of study to become a minister, priest, rabbi or other professional in the field of religion.

c) The dollar value of the BIG shall be determined according to the Table of Grant Amounts (see Appendix A~~ of this Part~~); provided, however, that:

1) the compound accreted value of the bonds shall not exceed $25,000 in any given academic year;

Example: A BIG could not be claimed for more than 5 bonds of $5,000 compound accreted value each in any given year. Even if 12 bonds of $5,000 compound accreted value each, or $60,000 total, had been purchased on behalf of a beneficiary, a BIG could be paid only for the first $25,000.

2) 70 percent of the compound accreted value of the bonds for which a BIG is being claimed in a given academic year does not exceed the beneficiary's cost of attendance at the institution of higher learning for that

year.

Example: The beneficiary's cost of attending University A is $14,000. Since $14,000 is 70 percent of $20,000, a BIG could not be claimed for bonds with a compound accreted value in excess of $20,000. Even if 5 bonds of $5,000 compound accreted value each, or $25,000 total, had been purchased on behalf of the beneficiary, in this case a BIG could be paid only on the first $20,000.

d) Both the proceeds of the bonds~~bond(s)~~ and the BIG assistance must be used by the student beneficiary in the academic year in which the bond matures or in the academic year immediately following maturity.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2771.40 Institutional Procedures

a) The institution shall certify that the student beneficiary is enrolled or accepted for enrollment at least half time.

b) BIG proceeds will be paid to institutions of record; however, proceeds may be remitted directly to the student beneficiary if the institution designates ISAC as its disbursing agent for this purpose.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Prepaid Tuition Program

2) Code Citation: 23 Ill. Adm. Code 2775

3)

Section Numbers:	Proposed Action:
2775.10	Amendment
2775.50	Amendment

4) Statutory Authority: Implementing the Illinois Prepaid Tuition Act [110 ILCS 979] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) A Complete Description of the Subjects and Issues Involved: In Section 2775.10, a service mark symbol "SM" has been added to College Illinois!. An application to The United States Patent and Trademark Office has been submitted for the mark College Illinois!. Amending Section 2775.50 to delete language for contracts to which that provision applied. These contracts have been in force for more than three years, so the restriction is no longer needed.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: 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)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 3706
email:lhynes@isac.org

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2775
ILLINOIS PREPAID TUITION PROGRAM

Section
2775.10 Summary and Purpose
2775.20 Definitions
2775.30 Participant Eligibility
2775.40 Program Procedures
2775.50 Contract Terms and Conditions
2775.60 Scholarships, Grants or Monetary Assistance
2775.70 Disclosure

AUTHORITY: Implementing the Illinois Prepaid Tuition Act [110 ILCS 979] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 16652, effective September 11, 1998, for a maximum of 150 days; adopted at 23 Ill. Reg. 2591, effective February 1, 1999; amended at 24 Ill. Reg. 9154, effective July 1, 2000; amended at 25 Ill. Reg. 8410, effective July 1, 2001; amended at 26 Ill. Reg. 10043, effective July 1, 2002; amended at 28 Ill. Reg. 9177, effective July 1, 2004; amended at 29 Ill. Reg. 9954, effective July 1, 2005; amended at 32 Ill. Reg. _____, effective _____.

Section 2775.10 Summary and Purpose

a) The Illinois Prepaid Tuition Program, also known as College Illinois![SM], provides Illinois families with a tax-advantaged method of saving for college. The purpose of the program is to encourage and better enable Illinois families to help themselves finance the cost of higher education.

b) This Part establishes rules that govern the Illinois Prepaid Tuition Program. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 2775.50 Contract Terms and Conditions

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

a) Contract Types

The program shall offer purchasers at least two different types of contracts: a public university plan and a community college plan. Additional contract plans may be offered. All contract types shall cover registration fees.

1) The public university plan specifies that no more than 9 terms, or 135 credit hours, at an Illinois public university may be purchased for the benefit of a qualified beneficiary. Applicants may choose to purchase as little as one term, or 15 credit hours, at a time.

2) The community college plan specifies that no more than 4 terms, or 60 credit hours, at an Illinois community college may be purchased for the benefit of a qualified beneficiary. Applicants may choose to purchase as little as one term, or 15 credit hours, at a time.

3) No more than an aggregate of 135 credit hours of benefits may be purchased on behalf of any qualified beneficiary.

b) Contract Benefits

1) The registration fees contracted for by the purchaser shall be paid directly to the institution at the time of enrollment of the qualified beneficiary. The credit hours purchased may be used during any term of postsecondary undergraduate enrollment. A bona fide social security number must be on file prior to payment of benefits.

2) No~~For contracts sold prior to October 31, 2001, no contract benefits may be received by a qualified beneficiary of an Illinois prepaid tuition contract earlier than three years from the date the contract was purchased. For contracts sold on or after October 31, 2001, no~~ contract benefits may be received by a qualified beneficiary of an Illinois prepaid tuition contract earlier than three years from the due date of the first contract payment.

3) No interest in all or any portion of a contract may be used as security for a loan.

c) Contract Requirements

1) Purchasers must name a qualified beneficiary in the application. Only one qualified beneficiary is allowed per contract. A separate accounting will be provided for each designated beneficiary.

2) In the event duplicate applications for the same qualified beneficiary are processed, the application processed first shall be deemed valid and the remaining application or applications shall be deemed valid, if and only if, they provide for registration fees not already covered by previous applications.

3) The purchaser does not have to designate the postsecondary institution which the qualified beneficiary is expected to attend.

4) The benefits of a contract may be used within three years in advance of the selected matriculation date indicated in the application with no penalty or additional cost. However, to utilize a contract prior to the selected matriculation date, the purchaser must pay the contract in full before changing such matriculation date.

5) Benefits may be received for up to a 10-year period after the qualified beneficiary's first enrollment date. This 10-year limitation may be extended upon application to the Commission and the payment of a renewal fee assessed at that time. Any time spent by the qualified beneficiary in active military service shall not count as part of the time period for receiving contract benefits under all contract plans.

6) The purchaser and qualified beneficiary are prohibited from directing the investment of any contributions to the program.

d) Contract Exclusions

1) Prepaid tuition contract plans do not cover payment of registration fees for graduate programs, adult basic programs, adult secondary programs, or postsecondary adult vocational programs.

2) Purchasers may request approval to apply unexpended prepaid tuition credits toward payment of graduate school registration fees, in cases where other prepaid tuition contract benefits already have been utilized for undergraduate education and an undergraduate degree has been conferred.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

e) Change of Purchaser and Change of Qualified Beneficiary

1) The purchaser of a contract may be changed upon written request of the original purchaser and the new purchaser. The new purchaser must meet the requirements of a qualified purchaser contained in the master agreement other than the residency requirement. (See Section 2775.30(a).)

2) Upon written request, contract benefits may be transferred by the purchaser to a new qualified beneficiary prior to actual use. The new qualified beneficiary must be a member of the family of the original qualified beneficiary but need not meet the residency requirement. (See Section 2775.30(a).)

f) Benefit Portability and Conversion Between Illinois Public Universities and Illinois Community Colleges

1) Public university plan benefits may be converted for usage at community colleges and community college plan benefits may be converted for usage at public universities.

2) Benefits shall be converted by referencing the relative current average mean-weighted credit hour value of registration fees purchased under the contract. Such benefit conversions shall be authorized on a term-by-term basis and no fee shall be assessed for conversion of benefits among in-State public institutions.

g) Benefit Portability and Conversion to Nonpublic and Out-of-State Higher Education Institutions

1) Public university plan and community college plan contract benefits may be converted for payment of registration fees at nonpublic and out-of-state not-for-profit higher education institutions.

2) Benefits shall be converted by referencing the current average mean-weighted credit hour value of registration fees purchased under the contract. Each term, the Commission shall transfer this amount to the nonpublic or out-of-state institution on behalf of the qualified beneficiary.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 32 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 16

3) Section Number: 16.APPENDIX A
Proposed Action: Amend

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to amend Section 16.Appendix A to add numerous publicly-owned airports to the Part. This Part prescribes requirements for administration and enforcement that restrict the height of structures, equipment, and vegetation, and that regulate the use of property, on or in the vicinity of publicly-owned airports. The following airports will be covered under this Part upon adoption of this proposed rulemaking: Robinson Municipal Airport (RSV), Taylorville Municipal Airport (TAZ), Mid America St. Louis Airport (BLV), Logan County Airport (AAA), Vandalia Municipal Airport (VLA), Waukegan Regional Airport (UGN), Southern Illinois Airport (MDH), St. Louis Downtown Airport (CPS), Macomb Municipal Airport (MQB), Chicago Executive Airport (PWK), Havana Regional Airport (9I0), Morris Municipal Airport (C09), Effingham County Memorial Airport (1H2), University of Illinois – Willard Airport (CMI), Mt. Sterling Municipal Airport (I63).

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Any future development, business, or small municipality located in the vicinity of those airports being added to this Part may be affected by this rulemaking. Additionally, other proposed objects situated under the surfaces described in Sections 16.40 - 16.110 such as farm ground, grain elevators, power companies, cell towers, radio towers, TV towers, etc., may also be impacted by this rulemaking. However, this proposed rulemaking has no impact on pre-existing businesses per Section 16.140.

B) Reporting, bookkeeping or other procedures required for compliance: The Division must be notified concerning objects on airport property. (See Section 16.160.) For objects off airport property, the person or sponsor will be directed by the Division to notify the FAA. No bookkeeping requirements are anticipated.

C) Types of professional skills necessary for compliance: If supplemental information (certified engineering/survey data) from a professional engineer, architect or surveyor concerning the proposed site location and height is requested under Section 16.160(c)(2)(C), compliance with this request will be necessary.

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 16
AIRPORT HAZARD ZONING

Section

16.10 Purpose and Scope
16.20 Applicability
16.30 Definitions
16.35 Public Hearings
16.40 Surfaces and Height Limitations
16.50 Horizontal Surface
16.60 Conical Surface
16.70 Primary Surface
16.80 Approach Surface
16.90 Transitional Surfaces
16.100 Circling Approach Surface
16.110 Instrument Approach Obstruction Clearance Surface
16.120 Heliport/Vertiport Surfaces
16.130 Use Restrictions
16.140 Pre-Existing, Non-Conforming Uses (Grandfather Clause)
16.150 Pre-Existing, Non-Conforming Structures, Uses, or Vegetation Abandoned or Destroyed
16.160 Notice of Construction or Alteration of Any Structure
16.170 Permits
16.180 Variances
16.190 Administrative and Judicial Review
16.200 Penalties
16.210 Conflicting Regulations
16.220 Severability
16.APPENDIX A Applicable Airports
16.ILLUSTRATION A Airports Imaginary Surfaces
16.ILLUSTRATION B Airports (Public- or Private-Use) Minimum Dimensional Standards
16.ILLUSTRATION C Obstruction Standards (= 6 Nautical Miles)
16.ILLUSTRATION D Obstruction Standards (> 6 Nautical Miles)
16.ILLUSTRATION E Public- or Private-Use Heliport/Vertiport Minimum Dimensional Standards

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

AUTHORITY: Implementing and authorized by the Airport Zoning Act [620 ILCS 25].

SOURCE: Adopted at 28 Ill. Reg. 2421, effective January 26, 2004; amended at 29 Ill. Reg. 12529, effective July 27, 2005; amended at 30 Ill. Reg. 14117, effective August 10, 2006; amended at 31 Ill. Reg. 3191, effective February 9, 2007; amended at 32 Ill. Reg. _____, effective _____.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

Section 16.APPENDIX A Applicable Airports

Airport	City	County	ARP Latitude	ARP Longitude	Fed Std.	State Std.	Applicable Date
SPI	Springfield	Sangamon	39-50.64	89-40.66	X		Jan. 26, 2004
MLI	Moline	Rock Island	41-26.91	90-30.45	X		July 29, 2005
SQI	Sterling-Rock Falls	Whiteside	41-44.57	89-40.58	X		July 29, 2005
SLO	Salem	Marion	38-38.57	88-57.85	X		July 29, 2005
H96	Benton	Franklin	38-00.41	88-56.07	X		Sept. 15, 2006
CIR	Cairo	Alexander	37-03.87	89-13.18	X		Sept. 15, 2006
CTK	Canton	Fulton	40-34.15	90-04.49	X		Sept. 15, 2006
DEC	Decatur	Macon	39-50.08	88-51.94	X		Sept. 15, 2006
DKB	DeKalb	DeKalb	41-56.02	88-42.34	X		Sept. 15, 2006
GBG	Galesburg	Knox	40-56.28	90-25.87	X		Sept. 15, 2006
HSB	Harrisburg	Saline	37-48.69	88-32.95	X		Sept. 15, 2006
IJX	Jacksonville	Morgan	39-46.48	90-14.30	X		Sept. 15, 2006
JOT	Joliet	Will	41-31.08	88-10.52	X		Sept. 15, 2006
EZI	Kewanee	Henry	41-12.31	89-57.83	X		Sept. 15, 2006
IGQ	Lansing	Cook	41-32.09	87-31.77	X		Sept. 15, 2006
MWA	Marion	Williamson	37-45.30	89-00.67	X		Sept. 15, 2006
MTO	Mattoon	Coles	39-28.68	88-16.75	X		Sept. 15, 2006
PRG	Paris	Edgar	39-42.01	87-40.17	X		Sept. 15, 2006
3MY	Peoria	Peoria	40-47.72	89-36.80	X		Sept. 15, 2006
PIA	Peoria	Peoria	40-39.86	89-41.60	X		Sept. 15, 2006
VYS	Peru	LaSalle	41-21.11	89-09.19	X		Sept. 15, 2006
LOT	Romeoville	Will	41-36.44	88-05.77	X		Sept. 15, 2006
DPA	West Chicago	DuPage	41-54.47	88-14.92	X		Sept. 15, 2006
K06	Beardstown	Cass	39-58.40	90-24.22	X		Feb. 28, 2007
OLY	Olney	Richland	38-43.31	88-10.59	X		Feb. 28, 2007
LWV	Lawrenceville	Lawrence	38-45.86	87-36.33	X		Feb. 28, 2007
CUL	Carmi	White	38-05.38	88-07.38	X		Feb. 28, 2007
C73	Dixon	Lee	41-50.02	89-26.77	X		Feb. 28, 2007
ORD	Chicago	Cook	41-58.72	87-54.29	X		Feb. 28, 2007

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

TAZ	Taylorville	Christian	39-31.95	89-19.84	X		

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

Airport	City	County	ARP Latitude	ARP Longitude	Fed Std.	State Std.	Applicable Date
BLV	Belleville/Mascoutah	St. Clair	38-32.71	89-50.11	X		
AAA	Lincoln	Logan	40-09.52	89-20.10	X		
VLA	Vandalia	Fayette	38-59.49	89-09.97	X		
UGN	Waukegan	Lake	42-25.33	87-52.07	X		
MDH	Carbondale	Jackson	37-46.69	89-15.12	X		
CPS	Cahokia/Sauget	St. Clair	38-34.24	90-09.37	X		
MQB	Macomb	McDonough	40-31.21	90-39.14	X		
PWK	Wheeling/Prospect Heights	Cook	42-06.85	87-54.09	X		
9I0	Havana	Mason	40-13.32	90-01.37	X		
C09	Morris	Grundy	41-25.53	88-25.12	X		
1H2	Effingham	Effingham	39-04.23	88-32.01	X		
CMI	Champaign/Savoy	Champaign	40-02.36	88-16.68	X		
I63	Mt. Sterling	Brown	39-59.25	90-48.25	X		
RSV	Robinson	Crawford	39-00.96	87-38.99	X		

(Source: Amended at 32 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Bi-State Parks Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 22

3)

Section Numbers:	Proposed Action:
22.10	Repeal
22.20	Repeal
22.30	Repeal
22.40	Repeal
22.50	Repeal
22.60	Repeal
22.70	Repeal
22.80	Repeal
22.90	Repeal
22.100	Repeal
22.110	Repeal
22.120	Repeal
22.130	Repeal
22.140	Repeal
22.150	Repeal
22.160	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the St. Louis Downtown Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 22
BI-STATE PARKS AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

22.10 Introduction
22.20 Short Title
22.30 Definitions
22.40 Surfaces and Height Limitations
22.50 Use Restrictions
22.60 Non-Conforming Uses
22.70 Permits
22.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
22.90 Variances
22.100 Notice of Construction or Alteration
22.110 Enforcement
22.120 Appeal and Judicial Review
22.130 Penalties
22.140 Conflicting Regulations
22.150 Severability
22.160 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Adopted at 5 Ill. Reg. 12157, effective October 23, 1981; codified at 6 Ill. Reg. 15255; repealed at 32 Ill. Reg. _____, effective _____.

Section 22.10 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Bi-State Parks Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Bi-State Parks

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of Bi-State Development Agency, as owner and operator of Bi-State Parks Airport, pursuant to the authority conferred by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Bi-State Parks Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Bi-State Parks Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Bi-State Parks Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards by prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Bi-State Parks Airport be adopted as follows:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 22.20 Short Title

These zoning regulations shall be known and may be cited as "Airport Hazard Zoning Regulations for Bi-State Parks Airport".

Section 22.30 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Bi-State Parks Airport located near Cahokia, in part of Township 1-2 North (Centrevill), Range 9-10 West of the Third Principal Meridian, St. Clair County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 412.38' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 38º 34' 20" N and Longitude 90º 09' 26" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 22.40 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 22.90.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight– in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 22.40 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such

surfaces shall include all of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, surfact to include non-precision instrument approaches, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.) for Bi-State Parks Airport prepared by Horner & Shifrin, Inc., St. Louis, Missouri. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 412.38 above mean sea level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and

transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150' above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200' beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed

in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot

vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90º) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 412.38' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90º) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' AGL or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Bi-State Parks Airport and this surface increases in height in the proportion of 100' for each additional nautical mile of distance from the airport reference point up to a maximum of 500'.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50' above the surface of the land.

Section 22.50 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

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Section 22.60 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Sec. 22.60 (a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Bi-State Development Agency.

Section 22.70 Permits

a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75' of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200' from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75' of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75' of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 22.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was

located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 22.90 Variances

a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 22.100 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 22.40 hereof with respect to Bi-State Parks Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3200' in actual length.

B) 50 to 1 for a horizontal distance of 10,000' from the nearest point

of the nearest runway of the airport, with the longest runway not more than 3200' in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this Section.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Bi-State Parks Airport:

1) Any antenna structure of 20' or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

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c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) of this section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, One Langhorne Bond Drive. Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgement of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above within 30 days of receipt of such notice.

2) The acknowledgement will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation, although an application for variance pursuant to Sec. 22.90 of these regulations would be required; or

C) Would exceed a standard of the Statute, rules and regulations of

the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation, and an application for variance pursuant to Sec. 22.90 of these regulations would be required; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 22.110 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 22.120 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Franklin County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled "The Administrative Review Law", (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.)

Section 22.130 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated

hereunder shall constitute an airport hazard and a petty offense, and such hazard shall be removed by proper legal proceedings and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of St. Clair County, Illinois, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 22.140 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 22.150 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 22.160 Effective Date

These zoning regulations shall be in full force and effect from and after concurrence by the Illinois Commerce Commission, adopted by the Department and ten (10) days after filing with the Secretary of State.

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1) Heading of the Part: Effingham County Memorial Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 40

3)

Section Numbers:	Proposed Action:
40.5	Repeal
40.10	Repeal
40.20	Repeal
40.30	Repeal
40.40	Repeal
40.50	Repeal
40.60	Repeal
40.70	Repeal
40.80	Repeal
40.90	Repeal
40.100	Repeal
40.110	Repeal
40.120	Repeal
40.130	Repeal
40.140	Repeal
40.150	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Effingham County Memorial Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

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C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 40
EFFINGHAM COUNTY MEMORIAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

40.5 Introduction
40.10 Short Title
40.20 Definitions
40.30 Surfaces and Height Limitations
40.40 Use Restrictions
40.50 Non-Conforming Uses
40.60 Permits
40.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
40.80 Variances
40.90 Notice of Construction or Alteration
40.100 Enforcement
40.110 Appeal and Judicial Review
40.120 Penalties
40.130 Conflicting Regulations
40.140 Severability
40.150 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Filed and effective March 19, 1974; codified at 6 Ill. Reg. 15255; repealed at 32 Ill. Reg. _____, effective _____.

Section 40.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Effingham County Memorial Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the

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Effingham County Memorial Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Effingham County, a municipal corporation of the State of Illinois, as owner and operator of Effingham County Memorial Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act as approved July 17, 1945, (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Effingham County Memorial Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Effingham County Memorial Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Effingham County Memorial Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expand public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of

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Aeronautics, State of Illinois, that the zoning regulations for Effingham County Memorial Airport be adopted as follows:

Section 40.10 Short Title

These zoning regulations shall be known and may be cited as "Effingham County Memorial Airport Hazard Zoning Regulations".

Section 40.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Effingham County Memorial Airport located near Effingham in the Northwest ¼ of Section 9, the Northwest ¼ of the Northeast ¼ of Section 9, the East ½ of Southwest ¼ of Section 9; plus the East ½ of the Northeast ¼ of Section 8, all in Township 7 North, Range 6 East of the Third Principal Meridian, Effingham County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 589' above mean sea level.

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 39° 04' 29" North and Longitude 88° 32' 12" West.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, 14 CFR 77.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" - The Department of Transportation, Division of Aeronautics of

the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs or foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Precisions Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and so indicated by an FAA Approved Layout Plan.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Department of Transportation, Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporation town, village, county, township, district, or authority, or any combination of two or more

thereof, situated in whole or in part within any of the surfaces established by Section 40.30 hereof.

"Runway" – The prepared surface of an airport landing stip.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 1 to 100 means one foot vertically for each one hundred feet of horizontal distance.

"State" - The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 40.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedures and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 40.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, an

order to carry out the provisions of these zoning regulations. Such surfaces shall include all of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Effingham County Memorial Airport consisting of two (2) sheets, prepared by William J. Murray and Associates, and dated July 3, 1973, (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.) and referred to hereinafter as the zoning map. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 589.00 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall

be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

3) The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precisions instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally 40 each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 589.0' above mean sea level. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Effingham County Memorial Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 40.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would

be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 40.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section V (1), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Effingham County Memorial Airport.

Section 40.60 Permits

a) Future Uses – Except as specifically provided in paragraphs (a), (b), and (c) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary,

transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 50 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 40.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-

conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 40.80 Variances

a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a Variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 40.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 40.30 hereof with respect to Effingham County Memorial Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface

extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a) or (b) of this paragraph.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Effingham County Memorial Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

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c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (1) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the thirty (30) day requirement in paragraph (b) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (1) above.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a

hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 40.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

Section 40.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Effingham County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, par. 3-101 et seq.).

Section 40.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars ($200.00) and each day a violation continues to exist shall

constitute a separate offense. In addition, the Department may institute in the Circuit Court of Effingham County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 40.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 40.140 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 40.150 Effective Date

Whereas, the immediate application of the provisions fo these zoning regulations are necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.

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NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Havana Regional Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 49

3)

Section Numbers:	Proposed Action:
49.10	Repeal
49.20	Repeal
49.30	Repeal
49.40	Repeal
49.50	Repeal
49.60	Repeal
49.70	Repeal
49.80	Repeal
49.90	Repeal
49.100	Repeal
49.110	Repeal
49.120	Repeal
49.130	Repeal
49.140	Repeal
49.EXHIBIT A	Repeal

4) Statutory Authority: Implementing and authorized by Section 17 of the Airport Zoning Act [620 ILCS 25/17]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Havana Regional Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

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C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 49
HAVANA REGIONAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

49.10 Introduction
49.20 Definitions
49.30 Surfaces and Height Limitations
49.40 Use Restrictions
49.50 Non-Conforming Uses
49.60 Permits
49.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
49.80 Variances
49.90 Notice of Construction or Alteration
49.100 Enforcement
49.110 Appeal and Judicial Review
49.120 Penalties
49.130 Conflicting Regulations
49.140 Severability
49.EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1985, ch. 15½, par. 48.17).

SOURCE: Adopted at 11 Ill. Reg. 2882, effective January 21, 1987; repealed at 32 Ill. Reg. _____, effective _____.

Section 49.10 Introduction

a) Zoning provisions regulating and restricting the height of structures and trees, and otherwise regulating the use of property in the vicinity of the Havana Regional Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Havana Regional Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation,

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Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of Havana Port District, as owner and operator of Havana Regional Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1985, ch. 15½, pars. 48.1 et seq.). *It is hereby found that an airport hazard endangers the lives and property of users of* Havana Regional Airport *and of occupants of land* or property *in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of* Havana Regional Airport *and the public investment therein*.

1) *Accordingly, it is declared*:

A) *That the creation or establishment of an airport hazard is a public nuisance and an injury to the* region *served by* Havana Regional Airport;

B) *That it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and*

C) That the prevention of these hazards *should be accomplished to the extent legally possible, by the exercise of the police power, without compensation*.

2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and*/or *lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land* or interests in land. (Section 11 of the Act)

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Havana Regional Airport be adopted as follows.

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Section 49.20 Definitions

As used in this Part, unless the context otherwise requires:

"Airport" – The Havana Regional Airport located near Havana, in the Southeast ¼ of Section thirty two (32), Township twenty one (21) North, Range eight (8) West of the Third Principal Meridian, Mason County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 499 feet above mean sea level (AMSL).

"Airport Hazard" – *Any structure*, tree, *or use of land which obstructs the airspace required for*, or is otherwise hazardous to *the flight of aircraft in landing or taking-off at the airport*. (Section 3 of the Act)

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 40° 13' 16" N and Longitude 90° 01' 22" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Section 49.30 of this Part.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Flight Safety Coordinator" – An employee of the Department whose duties include, but are not limited to inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

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"Height" – The overall height of the top of a structure including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Non-Conforming Use" – Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned, or indicated on a FAA planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 49.60 of this Part.

"Person" – An *individual, firm*, partnership, *corporation, company, association, joint stock association, or body politic*, and includes a *trustee, receiver, assignee*, administrator, executor, guardian, *or other representative, and including this state* and the Division of Aeronautics.

"Political Subdivision" – *Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof*, situated in whole or in part within any of the surfaces established by Section 49.30 hereof.

"Precision Instrument Runway" – A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of

Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" – *The State of Illinois*.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestakes, and overhead transmission lines.

"Tree" – Any object of natural growth.

"Utility Runway" - A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of this Part, in accordance with Section 49.80.

"Visibility Minimums" – The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" – A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

Section 49.30 Surfaces and Height Limitations

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C) for Havana Regional Airport prepared by William J. Murray and Associates, Inc., Springfield, Illinois. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150 feet above the established airport elevation of 499 feet AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250 feet for utility runways having only visual approaches;

B) 500 feet for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500 feet for visual runways having only visual approaches;

ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute miles;

iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250 feet for that end of utility runway with only visual approaches;

B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;

C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;

D) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;

E) 4,000 feet for that end of a non-precision instrument runway, other

than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000 feet for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;

B) 10,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extend at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 499 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Havana Regional Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

Section 49.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

a) Electrical or Electronic Interference

1) In such manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.

2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.

b) Flashing or Illuminated Structures

1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.

2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which

would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

2) In determining if such an emission or discharge of smoked would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 49.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part and is diligently prosecuted.

b) Marking and Lighting

1) Notwithstanding the provisions of Section 49.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Havana Port District.

2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 49.60 Permits

a) Future Uses – Except as specifically provided in subsections (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or tree of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 49.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

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Whenever the Department following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure* or use or tree *has been abandoned or more than 80 per cent* demolished, *destroyed*, physically *deteriorated, or decayed*:

a) *No permit shall be granted* by the Department *that would allow such structure* or use or tree *to exceed the applicable height limit or otherwise deviate from* these *zoning regulations; and*

b) *Whether application is made for a permit, or not, the Department may* issue an order pursuant to Section 49.70(c), in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling *the owner of the non - conforming structure* or use or tree, *at his own expense, to lower, remove, reconstruct, or equip such* structure or use or tree *as may be necessary to conform to* these zoning *regulations*. *If the owner of the non-conforming structure* or use or tree *shall neglect or refuse to comply with such order* within ten (10) *days after notice thereof, the Department may proceed to have* such structure or use or tree *so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the state, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the state by* suit in equity *for the enforcement thereof as in the case of other liens*. (Section 23 of the Act)

c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 49.80 Variances

a) General – *Any person* wishing to erect or increase the height of *any structure, or permit* any *growth, or use his property* not in accordance with these *zoning regulations, may apply to the Department for a variance from* these *zoning regulations. Such variances shall be allowed where* it is duly found that *a literal application or enforcement of* these *zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of* these *zoning regulations.* (Section 24 of the Act)

b) Marking and Lighting – Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.

c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 49.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established herein by Section 49.30 hereof with respect to Havana Regional Airport:

1) Any construction or alteration of more than 200 feet in height above ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15

feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subsection (1) or (2) of this Section.

4) Any construction or alteration that would exceed a standard of the Act or this Part.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Havana Regional Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses structures.

c) Form and Time of Notice

1) Each person who is required to notify the Department under subsection (a) this Section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the

proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter. For example an emergency could include breaks in sewer lines, gas mains or power lines.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) above within 30 days of receipt of such notice.

2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would under federal rules require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1F, September 27, 1978, as provided in 14 CFR 77.11(b)(3), January 1, 1983, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or

B) Would not exceed any standard of the Act or this Part; or

C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this Part; or

D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 49.100 Enforcement

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It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Departme nt and shall be promptly considered and granted or denied.

Section 49.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in Administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceedings before Board of Appeal shall govern such application to the Department. (Ill. Rev. Stat. 1985, ch. 15½, par. 48.29)

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Mason County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled The Administrative Review Law (Ill. Rev. Stat. 1985, ch. 110, pars. 3-101 et seq.).

Section 49.120 Penalties

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense*, and such hazard shall be removed by proper legal proceedings and *each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the* Circuit Court of Mason County, Illinois, or *Circuit Court of any county in which the airport hazard* is wholly or partly *located, an action to prevent* and *restrain, correct or abate, any violation of* these *zoning regulations, or of any* regulation, *order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of* these zoning *regulations* as *adopted and orders and rulings made pursuant thereto.* (Section 34 of the Act)

Section 49.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

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Section 49.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

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Section 49.EXHIBIT A Proposed Construction Permit Request

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS
PROPOSED CONSTRUCTION PERMIT REQUEST

Name of Individual or Co mpany
Making Request _____

Address _____
Street City Zip Phone

Nature and Description of Proposed Structure:		New Construction			
		Alteration			
	Nearest Town:				
	Location from Nearest Town				
	Direction		Distance		
	Nearest Airport:				
	From Nearest Point to a Runway				
	Distance		Direction		
	Latitude		Longitude		
	°	' "	°	'	"

PROPOSED HEIGHTS AND ELEVATIONS				
Site Elevation (Mean Sea Level)				Feet
Highest Point of Structure Above Ground				Feet
Overall Height above Mean Sea Level				Feet
Estimated Construction Starting Date				
Estimated Construction Completion Date				
Type of Structure:	Permanent	_____	Temporary	_____
Will Structure be Obstruction Lighted:	Yes	_____	No	_____
Will Structure be Obstruction Marked:	Yes	_____	No	_____

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Remarks:		
Date:	Title or Position:	Signature

Form DA 39

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1) Heading of the Part: Logan County Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 60

3)

Section Numbers:	Proposed Action:
60.10	Repeal
60.20	Repeal
60.30	Repeal
60.40	Repeal
60.50	Repeal
60.60	Repeal
60.70	Repeal
60.80	Repeal
60.90	Repeal
60.100	Repeal
60.110	Repeal
60.120	Repeal
60.130	Repeal
60.140	Repeal
60.150	Repeal
60.160	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Logan County Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

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C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 60
LOGAN COUNTY AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

60.10 Introduction
60.20 Short Title
60.30 Definitions
60.40 Surfaces and Height Limitations
60.50 Use Restrictions
60.60 Non-Conforming Uses
60.70 Permits
60.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
60.90 Variances
60.100 Notice of Construction or Alteration
60.110 Enforcement
60.120 Appeal and Judicial Review
60.130 Penalties
60.140 Conflicting Regulations
60.150 Severability
60.160 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Adopted at 5 Ill. Reg. 8081, effective July 23, 1981; codified at 6 Ill. Reg. 15572; repealed at 32 Ill. Reg. _____, effective _____.

Section 60.10 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Logan County Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Logan County

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Airport zoning plans (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Logan County Board, a municipal corporation of the State of Illinois, as owner and operator of Logan County Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act as approved July 17, 1945, (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Logan County Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Logan County Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Logan County Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards by prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Logan County

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Airport be adopted as follows:

Section 60.20 Short Title

These zoning regulations shall be known and may be cited as "Airport Hazard Zoning Regulations for Logan County Airport".

Section 60.30 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Logan County Airport located near Lincoln, in the Northeast ¼, the Northeast ¼ of the Southeast ¼, and the North ½ of the Northwest ¼ of the Southeast ¼, all in Section 29, Township 20 North, Range 2 West of the Third Principal Meridian, Logan County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 59.64' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 40° 9' 30" N and Longitude 89° 20' 00" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation.

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"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 60.40 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is

planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 60.90.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 60.40 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established in

order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach, surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Logan County Airport prepared by William J. Murray and Associates, Springfield, Illinois, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 596.64' AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and

transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with

an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 596.64' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Logan County Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 60.50 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots

and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 60.60 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 60.60(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Logan County Board.

Section 60.70 Permits

a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the

runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 60.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within

ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 60.90 Variances

a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these zoning regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 60.100 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established herein by Section 60.40 hereof with respect to Logan County Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more

than 3,200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this paragraph.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Logan County Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a

city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a)(1) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, One Langhorne Bond Drive, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the thirty (30) day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above within 30 days of receipt of such notice.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation, although an application for variance pursuant to

Section 60.90 of these regulations would be required; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation and an application for variance pursuant to Section 60.90 of these regulations would be required; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 60.110 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 60.120 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Logan County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Sat. 1981, ch. 110, pars. 3-101 et. seq.).

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Section 60.130 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a petty offense, and such hazard shall be removed by proper legal proceedings and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Logan County, Illinois, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 60.140 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 60.150 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 60.160 Effective Date

a) These zoning regulations shall be in full force and effect from and after concurrence by the Illinois Commerce Commission, adoption by the Department and filing with the Office of the Secretary of State.

b) Concurred in by Order of the Illinois Commerce Commission dated April 8, 1981.

c) Adopted by Order of the Division of Aeronautics dated July 20, 1981.

d) Filed with the Office of the Secretary of State and became effective on July 23,

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1981.

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1) Heading of the Part: Macomb Municipal Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 62

3)

Section Numbers:	Proposed Action:
62.5	Repeal
62.10	Repeal
62.20	Repeal
62.30	Repeal
62.40	Repeal
62.50	Repeal
62.60	Repeal
62.70	Repeal
62.80	Repeal
62.90	Repeal
62.100	Repeal
62.110	Repeal
62.120	Repeal
62.130	Repeal
62.140	Repeal
62.150	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Macomb Municipal Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

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C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 62
MACOMB MUNICIPAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

62.5 Introduction
62.10 Short Title
62.20 Definitions
62.30 Surfaces and Height Limitations
62.40 Use Restrictions
62.50 Non-Conforming Uses
62.60 Permits
62.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
62.80 Variances
62.90 Notice of Construction or Alteration
62.100 Enforcement
62.110 Appeal and Judicial Review
62.120 Penalties
62.130 Conflicting Regulations
62.140 Severability
62.150 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1991, ch. 15½, par. 48.1 et seq.).

SOURCE: Emergency rule adopted March 19, 1974; codified at 6 Ill. Reg. 15277; amended at 16 Ill. Reg. 12608, effective July 27, 1992; repealed at 32 Ill. Reg. _____, effective _____.

Section 62.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Macomb Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of

such surfaces, defining certain terms used herein; referring to the Macomb Municipal Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Macomb Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of Macomb Municipal Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act as approved July 17, 1945, (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Macomb Municipal Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Macomb Municipal Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Macomb Municipal Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

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c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Macomb Municipal Airport be adopted as follows:

Section 62.10 Short Title

These zoning regulations shall be known and may be cited as "Macomb Municipal Airport Hazard Zoning Regulations".

Section 62.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Macomb Municipal Airport located near Macomb, in part of the Southeast ¼ of Section 7, part of the South ½ of Section 8, and the West ½ of the Northwest ¼ of Section 8; all in Township 6 north, Range 2 West of the Fourth Principal Meridian, McDonough County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 711.30' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 40° 31' 11" N and Longitude 90° 39' 17" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

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"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 62.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 62.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 62.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the

most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface (to include non-precision instruments approach, precision instrument approach and visual approach), transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Plan for Macomb Municipal Airport consisting of one (1) sheet, prepared by Phoenix Engineering Company, and dated August 17, 1973, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62707-8415.) An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces described in subsections (b) through (h) are hereby established, and height limitations are established in those subsections for each of the surfaces.

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 711.30 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for

either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

3) The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precisions instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 711.30' above mean sea level. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Macomb Municipal Airport. This surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 62.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated

advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 62.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 62.50 (a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Macomb Airport Authority.

Section 62.60 Permits

a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical

surface, but which is not in violation of height restrictions for primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 50 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 62.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may by appropriate action, compel the owner of the non-conforming structure or use or

growth at his own expense, to lower, remove, reconstruct, or equip such structure or use or growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, upon behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 62.80 Variances

a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 62.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 62.30 hereof with respect to Macomb Municipal Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a) or (b) of this paragraph.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Macomb Municipal Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

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c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the thirty (30) day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30

days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 62.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

Section 62.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of McDonough County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.).

Section 62.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars ($200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of

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McDonough County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 62.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 62.140 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 62.150 Effective Date

Whereas, the immediate application of the provisions of these zoning regulations is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.

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1) Heading of the Part: Morris Municipal Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 67

3)

Section Numbers:	Proposed Action:
67.10	Repeal
67.20	Repeal
67.30	Repeal
67.40	Repeal
67.50	Repeal
67.60	Repeal
67.70	Repeal
67.80	Repeal
67.90	Repeal
67.100	Repeal
67.110	Repeal
67.120	Repeal
67.130	Repeal
67.140	Repeal
67.EXHIBIT A	Repeal

4) Statutory Authority: Implementing and authorized by Section 17 of the Airport Zoning Act [620 ILCS 25/17]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Morris Municipal Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

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C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 67
MORRIS MUNICIPAL AIRPORT
HAZARD ZONING (REPEALED)

Section

67.10 Introduction
67.20 Definitions
67.30 Surfaces and Height Limitations
67.40 Use Restrictions
67.50 Non-Conforming Uses
67.60 Permits
67.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
67.80 Variances
67.90 Notice of Construction or Alteration
67.100 Enforcement
67.110 Appeal and Judicial Review
67.120 Penalties
67.130 Conflicting Regulations
67.140 Severability
67.EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1991, ch. 15½, par. 48.17) [620 ILCS 25/17].

SOURCE: Adopted at 17 Ill. Reg. 9035, effective June 8, 1993; repealed at 32 Ill. Reg. _____, effective _____.

Section 67.10 Introduction

a) This Part regulates and restricts the height of structures and trees, and otherwise regulates the use of property in the vicinity of the Morris Municipal Airport by creating appropriate surfaces and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Morris Municipal Airport zoning map (Note: This zoning map can be viewed at the Department of Transportation, Division of

Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) This Part is adopted at the request of the City of Morris as owner and operator of Morris Municipal Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1991, ch. 15½, pars. 48.1 et seq.) [620 ILCS 25/17 et seq.]. *It is hereby found that an airport hazard endangers the lives and property of users of* Morris Municipal Airport *and of occupants of land* or property *in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of* Morris Municipal Airport *and the public investment therein*.

1) *Accordingly, it is declared*:

A) *That the creation or establishment of an airport hazard is a public nuisance and an injury to the* region *served by* Morris Municipal Airport;

B) *That it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented; and*

C) That the prevention of these hazards *should be accomplished to the extent legally possible, by the exercise of the police power, without compensation*.

2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and*/or *lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land* or interests in land. (Section 11 of the Act)

Section 67.20 Definitions

As used in this Part, the following terms have the meanings ascribed unless the context otherwise requires:

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"Airport" – The Morris Municipal Airport located near Morris, situated in Section 10, and part of the West Half of Section 15, Township 34 North, Range 7 East of the Third Prinicipal Meridian, Grundy County, Illinois; also known as Morris Municipal Airport.

"Airport Elevation" – The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 586 feet above mean sea level (AMSL).

"Airport Hazard" – *Any structure, tree, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking-off at the airport*. (Section 3 of the Act)

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 41° 25' 31.0" N and Longitude 88° 25' 07.2" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Section 67.30.

"Circling Approach Area" – That obstacle clearance area which shall be considered for aircraft maneuvering to land on a runway which is not aligned with the final approach course of the approach procedure.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics, of the State of Illinois.

"Departure Area" – That area which begins at the departure end of the runway and has a beginning width of 1000' (500' from centerline). The area splays 15~ on each side of the extended runway centerline for a distance of 2 Nautical Miles (NM). Additionally, it includes a second surface that extends radially from a point on the runway centerline located 2,000' from the start end of the runway and extends the distance necessary to provide a 40:1 obstacle identification surface to

reach the minimum altitudes authorized for en route operations.

"Final Approach Segment" – That area of an approach where the aircraft makes final alignment and descent for landing.

"Flight Safety Coordinator" – An employee of the Department whose duties include, but are not limited to, inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

"Height" – The overall height of the top of a structure, including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Initial Approach Segment" – That area of an instrument approach between a point where aircraft departs the en route phase of flight and is maneuvering to enter an intermediate segment. Such approach segments may be made along an arc, radial, course, heading, radar vector or a combination thereof.

"Intermediate Approach Segment" – That area of an approach between the initial and final approach segments where the aircraft adjusts configuration, speed and positioning along positive course guidance such as radial or course.

"Landing Area" – The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Minimum Instrument Flight Altitude" – An altitude established for instrument flight between radio fixes that provides obstacle clearance over the terrain and man-made objects, and is adequate for navigational performance and communications requirements.

"Non-Conforming Use" – Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" – A runway having an existing instrument

approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military airport planning document.

"Obstacle Clearance" – The vertical distance between the lowest authorized flight altitudes and a prescribed surface within a specified area.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 67.60 of this Part.

"Person" – An *individual, firm*, partnership, *corporation, company, association, joint stock association, or body politic,* and includes a *trustee, receiver, assignee,* administrator, executor, guardian, *or other representative, and including this State* and the Division of Aeronautics. (Section 7 of the Act)

"Political Subdivision" – *Any municipality, city, incorporated town, village, county, township, or district, or authority, or any combination of two or more thereof,* situated in whole or in part within any of the surfaces established by Section 67.30. (Section 6 of the Act)

"Precision Instrument Runway" – A precision instrument runway is one which provides both horizontal and vertical guidance. Guidance systems include, but are not limited to, instrument landing systems (ILS), precision approach radars (PAR), microwave landing systems (MLS) or global positioning satellites (GPS). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. l00 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" – *The State of Illinois*. (Section 8 of the Act)

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Terminal Obstacle Clearance Area" – That area near an airport that contains the initial, intermediate and final approach segments, circling and departure areas which are a part of an instrument approach procedure.

"Tree" – Any object of natural growth.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of l2,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of this Part, in accordance with Section 67.80.

"Visibility Minimums" – The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" – A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.

Section 67.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach

available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface (to include non-precision instrument approach, precision instrument approach and visual approach), transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.) for Morris Municipal Airport prepared by Chamlin & Associates, Inc., Peru, Ill. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces described in subsections (b) through (h) are hereby established, and height limitations are established in those subsections for each of the surfaces.

b) Horizontal Surface

1) A horizontal plane l50 feet above the established airport elevation of 586 feet Above Mean Sea Level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) l0,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the

same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent l0,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at l50 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250 feet for utility runways having only visual approaches;

B) 500 feet for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500 feet for visual runways having only visual approaches;

ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250 feet for that end of a utility runway with only visual approaches;

B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;

C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;

D) 3,500 feet for that end of a non-precision instrument runway, other than utility, having visibility minimums greater than three-fourths statute mile;

E) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000 feet for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically

for all utility and visual runways;

B) l0,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) l0,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of l50 feet above the airport elevation which is 586 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Morris Municipal Airport and this surface increases in height in the proportion of l00 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

i) Excepted Height Limitations – Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 67.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

a) Electrical or Electronic Interference

1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.

2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.

b) Flashing or Illuminated Structures

1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.

2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking-off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

2) In determining if such an emission or discharge of smoke would interfere

with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to, the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 67.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part, or otherwise to interfere with the continuance of any non-conforming use. Nothing contained in this Part shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part, and is diligently prosecuted.

b) Marking and Lighting

1) Notwithstanding the provisions of subsection (a) of this Section, the owner of any existing non-conforming structure is required to permit the installation, operation and maintenance of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport the presence of such airport hazards, all to be performed at the expense of the City of Morris.

2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 67.60 Permits

a) Future Uses – Except as specifically provided in subsections (a)(1), (2), and (3) of this Section, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface created unless a permit shall have been applied for and granted by the

Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this Part. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 67.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

Whenever the Department, following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure* or use *or tree has been abandoned or more than 80 per cent* demolished, *destroyed*, physically *deteriorated, or decayed*:

a) *No permit shall be granted* by the Department *that would allow such structure* or use *or tree to exceed the applicable height limit or otherwise deviate from* these *zoning regulations; and*

b) *Whether application is made for a permit, or not, the Department may* issue an order pursuant to subsection (c) of this Section, in cases where the remaining structure or use *or tree* constitutes a violation of this Part, compelling *the owner of the non-conforming structure* or use *or tree, at his own expense, to lower, remove, reconstruct, or equip such* structure or use *or tree as may be necessary to conform to* these zoning *regulations. If the owner of the non-conforming structure* or use *or tree shall neglect or refuse to comply with such order* within ten *days after notice thereof, the Department may proceed to have* such structure or use *or tree so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by* suit in equity *for the enforcement thereof as in the case of other liens.* (Section 23 of the Act)

c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 67.80 Variances

a) General – *Any person* wishing to erect or increase the height of *any structure, or permit* any *growth, or use his property* not in accordance with these *zoning regulations, may apply to the Department for a variance from* these *zoning regulations. Such variances shall be allowed where* it is found that *a literal application or enforcement of* these *zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of* these *zoning regulations.* (Section 24 of the Act)

b) Marking and Lighting – Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance of such markers and lights as may be required to indicate to pilots the presence of such structure or

tree.

c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 67.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established by Section 67.30 with respect to Morris Municipal Airport:

1) Any construction or alteration of more than 200 feet in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) l00 to l for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.

B) 50 to l for a horizontal distance of l0,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which would exceed a standard of subsection (a)(1) or (a)(2) of this Section, if adjusted upward: l7 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of l7 feet vertical distance; l5 feet for any other public roadway; l0 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road; 23 feet for a railroad; and for a waterway or any other

traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it.

4) Any construction or alteration that would exceed a standard of the Act or this Part.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Morris Municipal Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.

c) Form and Time of Notice

1) Each person who is required to notify the Department under subsection (a) of this Section shall forward one executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A of this Part) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration,

the 30-day requirement in subsection (c)(2) of this Section does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five days. For example, an emergency could include breaks in sewer lines, gas mains or power lines.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) of this Section within 30 days after receipt of such notice.

2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would, under federal rules, require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1, as provided in 14 CFR 77.11(b)(3), January l, l990, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or

B) Would not exceed any standard of the Act or this Part; or

C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code l4), or this Part; or

D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 67.100 Enforcement

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 67.110 Appeal and Judicial Review

a) *Appeal – Any person aggrieved by any decision of the Department made in administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceedings before board of appeal shall govern such application to the Department.* (Section 29 of the Act)

b) Judicial Review – Any person aggrieved or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Grundy County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions the Administrative Review Law (Ill. Rev. Stat. 1991, ch. 110, pars. 3-101 et seq.) [735 ILCS 5/3-101 et seq.].

Section 67.120 Penalties

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense*, and such hazard shall be removed by proper legal proceedings and *each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the* Circuit Court of Grundy County, Illinois, or *circuit court of any county in which the airport hazard* is wholly or partly *located, an action to prevent* and *restrain, correct or abate, any violation of* these *zoning regulations, or of any* regulation, *order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of* these zoning *regulations* as *adopted and orders and rulings made pursuant thereto.* (Section 34 of the Act)

Section 67.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 67.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 67.EXHIBIT A Proposed Construction Permit Request

ILLINOIS DEPARTMENT OF TRANSPORTATION
Division of Aeronautics

Name of Individual or Company
Making Request _____

Address _____
Street City Zip Phone

Nature and Description of Proposed Structure:		New Construction				
		Alteration				
	Nearest Town:					
	Location from Nearest Town					
	Direction		Distance			
	Nearest Airport:					
	From Nearest Point to a Runway					
	Direction		Distance			
	Latitude			Longitude		
	°	'	"		'	"

Proposed Heights and Elevations			
Site Elevation (Mean Sea Level)			Feet
Highest Point of Structure Above Ground			Feet
Overall Height above Mean Sea Level			Feet
Estimated Construction Starting Date			
Estimated Construction Completion Date			
Type of Structure:	Permanent	Temporary	
Will Structure be Obstruction Lighted:	Yes	No	
Will Structure be Obstruction Marked:	Yes	No	

Remarks:

Date:	Title or Position:	Signature

The Illinois Department of Transportation is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Section 1 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.1). Disclosure of this information is REQUIRED. Failure to provide any

information will result in denial of the construction permit. This form has been approved by the Forms Management Center.
DA-39 (Rev. 1-87) IL 494-0765

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Scott Joint-Use Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 77

3)

Section Numbers:	Proposed Action:
77.10	Repeal
77.20	Repeal
77.30	Repeal
77.40	Repeal
77.50	Repeal
77.60	Repeal
77.70	Repeal
77.80	Repeal
77.90	Repeal
77.100	Repeal
77.110	Repeal
77.120	Repeal
77.130	Repeal
77.140	Repeal
77.EXHIBIT A	Repeal

4) Statutory Authority: Implementing and authorized by Section 17 of the Airport Zoning Act [620 ILCS 25/17]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Mid America St. Louis Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

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C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 77
SCOTT JOINT-USE AIRPORT
HAZARD ZONING (REPEALED)

Section

77.10 Introduction
77.20 Definitions
77.30 Surfaces and Height Limitations
77.40 Use Restrictions
77.50 Non-Conforming Uses
77.60 Permits
77.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
77.80 Variances
77.90 Notice of Construction or Alteration
77.100 Enforcement
77.110 Appeal and Judicial Review
77.120 Penalties
77.130 Conflicting Regulations
77.140 Severability
77.EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1991, ch. 15½, par. 48.17) [620 ILCS 25/17].

SOURCE: Adopted at 17 Ill. Reg. 9057, effective June 8, 1993; repealed at 32 Ill. Reg. _____, effective _____.

Section 77.10 Introduction

a) This Part regulates and restricts the height of structures and trees, and otherwise regulates the use of property in the vicinity of the Scott Joint-Use Airport by creating appropriate surfaces and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Scott Joint-Use Airport zoning map (Note: This zoning map can be viewed at the Department of Transportation, Division of

Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) This Part is adopted at the request of the County of St. Clair and the United States Air Force, as owner and operator of Scott Joint-Use Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1991, ch. 15½, pars. 48.1 et seq.) [620 ILCS 25 et seq.]. *It is hereby found that an airport hazard endangers the lives and property of users of* Scott Joint-Use Airport *and of occupants of land* or property *in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of* Scott Joint-Use Airport *and the public investment therein*.

1) *Accordingly, it is declared*:

A) *That the creation or establishment of an airport hazard is a public nuisance and an injury to the* region *served by* Scott Joint-Use Airport;

B) *That it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented; and*

C) That the prevention of these hazards *should be accomplished to the extent legally possible, by the exercise of the police power, without compensation.*

2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and*/or *lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land* or interests in land. (Section 11 of the Act)

Section 77.20 Definitions

As used in this Part, the following terms have the meanings ascribed unless the context otherwise requires:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

"Airport" – The Scott Joint-Use Airport located near Belleville, situated in Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, Shiloh Valley Township 1 North, Range 7 West of the 3rd Principal Meridian and Sections 7, 8, 17, 18, Mascoutah Township, Township 1 North, Range 6 West of the 3rd Principal Meridian, St. Clair County, Illinois; also known as Scott Joint-Use Airport.

"Airport Elevation" – The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 455.3 feet above mean sea level (AMSL).

"Airport Hazard" – *Any structure, tree, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking-off at the airport*. (Section 3 of the Act)

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 38º 32' 42.5" N and Longitude 89º 50' 10.2" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Section 77.30.

"Circling Approach Area" – That obstacle clearance area which shall be considered for aircraft maneuvering to land on a runway which is not aligned with the final approach course of the approach procedure.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics, of the State of Illinois.

"Departure Area" – That area which begins at the departure end of the runway and has a beginning width of 1000' (500' from centerline). The areas splays 15~ on each side of the extended runway centerline for a distance of 2 Nautical Miles (NM). Additionally, it includes a second surface that extends radially from a point on the runway centerline located 2,000' from the start end of the runway and

extends the distance necessary to provide a 40:1 obstacle identification surface to reach the minimum altitudes authorized for en route operations.

"Final Approach Segment" – That area of an approach where the aircraft makes final alignment and descent for landing.

"Flight Safety Coordinator" – An employee of the Department whose duties include, but are not limited to, inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

"Height" – The overall height of the top of a structure, including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Initial Approach Segment" – That area of an instrument approach between a point where aircraft departs the en route phase of flight and is maneuvering to enter an intermediate segment. Such approach segments may be made along an arc, radial, course, heading, radar vector or a combination thereof.

"Intermediate Approach Segment" – That area of an approach between the initial and final approach segments where the aircraft adjusts configuration, speed and positioning along positive course guidance such as radial or course.

"Landing Area" – The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Minimum Instrument Flight Altitude" – An altitude established for instrument flight between radio fixes that provides obstacle clearance over the terrain and man-made objects, and is adequate for navigational performance and communications requirements.

"Non-Conforming Use" – Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

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"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military airport planning document.

"Obstacle Clearance" – The vertical distance between the lowest authorized flight altitudes and a prescribed surface within a specified area.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 77.60 of this Part.

"Person" – An *individual, firm,* partnership, *corporation, company, association, joint stock association, or body politic*, and includes a *trustee, receiver, assignee,* administrator, executor, guardian, *or other representative, and including this State* and the Division of Aeronautics. (Section 7 of the Act)

"Political Subdivision" – *Any municipality, city, incorporated town, village, county, township, or district, or authority, or any combination of two or more thereof*, situated in whole or in part within any of the surfaces established by Section 77.30. (Section 6 of the Act)

"Precision Instrument Runway" – A precision instrument runway is one which provides both horizontal and vertical guidance. Guidance systems include, but are not limited to, instrument landing systems (ILS), precision approach radars (PAR), microwave landing systems (MLS) or global positioning satellites (GPS). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. l00 to 1 means one hundred feet of horizontal distance for

each one foot vertically.

"State" – *The State of Illinois*. (Section 8 of the Act)

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Terminal Obstacle Clearance Area" – That area near an airport that contains the initial, intermediate and final approach segments, circling and departure areas which are a part of an instrument approach procedure.

"Tree" – Any object of natural growth.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of l2,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of this Part, in accordance with Section 77.80.

"Visibility Minimums" – The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" – A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.

Section 77.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is

based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface (to include non-precision instrument approach, precision instrument approach and visual approach), transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.) for Scott Joint-Use Airport prepared by TAMS/Sverdrup, Belleville, Ill. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces described in subsections (b) through (h) are hereby established, and height limitations are established in those subsections for each of the surfaces.

b) Horizontal Surface

1) A horizontal plane l50 feet above the established airport elevation of 455.3 feet Above Mean Sea Level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) l0,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent l0,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at l50 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250 feet for utility runways having only visual approaches;

B) 500 feet for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500 feet for visual runways having only visual approaches;

ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) l,250 feet for that end of a utility runway with only visual approaches;

B) l,500 feet for that end of a runway other than a utility runway with only visual approaches;

C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;

D) 3,500 feet for that end of a non-precision instrument runway, other than utility, having visibility minimums greater than three-fourths statute mile;

E) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) l6,000 feet for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;

B) l0,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) l0,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90~) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 455.3 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90º) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Scott Joint-Use Airport and this surface increases in height in the proportion of l00 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

i) Excepted Height Limitations – Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a

height up to 50 feet above the ground.

Section 77.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

a) Electrical or Electronic Interference

1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.

2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.

b) Flashing or Illuminated Structures

1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.

2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking-off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to, the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 77.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part, or otherwise to interfere with the continuance of any non-conforming use. Nothing contained in this Part shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part, and is diligently prosecuted.

b) Marking and Lighting

1) Notwithstanding the provisions of subsection (a) of this Section, the owner of any existing non-conforming structure is required to permit the installation, operation and maintenance of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport the presence of such airport hazards, all to be performed at the expense of the County of St. Clair and the United States Air Force.

2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 77.60 Permits

a) Future Uses – Except as specifically provided in subsections (a)(1), (2), and (3) of this Section, no material change shall be made in the use of land and no structure

or tree shall be erected, altered, planted, or otherwise established in any surface created unless a permit shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this Part. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 77.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

Whenever the Department, following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure* or use *or tree has been*

abandoned or more than 80 per cent demolished, *destroyed*, physically *deteriorated, or decayed*:

a) *No permit shall be granted* by the Department *that would allow such structure* or use *or tree to exceed the applicable height limit or otherwise deviate from* these *zoning regulations; and*

b) *Whether application is made for a permit, or not, the Department may* issue an order pursuant to subsection (c) of this Section, in cases where the remaining structure or use *or tree* constitutes a violation of this Part, compelling *the owner of the non-conforming structure* or use *or tree, at his own expense, to lower, remove, reconstruct, or equip such* structure or use *or tree as may be necessary to conform to* these zoning *regulations. If the owner of the non-conforming structure* or use *or tree shall neglect or refuse to comply with such order* within ten *days after notice thereof, the Department may proceed to have* such structure or use *or tree so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by* suit in equity *for the enforcement thereof as in the case of other liens*. (Section 23 of the Act)

c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 77.80 Variances

a) General – *Any person* wishing to erect or increase the height of *any structure, or permit* any *growth, or use his property* not in accordance with these *zoning regulations, may apply to the Department for a variance from* these *zoning regulations*. *Such variances shall be allowed where* it is found that *a literal application or enforcement of* these *zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of* these *zoning regulations*. (Section 24 of the Act)

b) Marking and Lighting – Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the

expense of the owner, the installation, operation and maintenance of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.

c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 77.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established by Section 77.30 with respect to Scott Joint-Use Airport:

1) Any construction or alteration of more than 200 feet in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) l00 to l for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.

B) 50 to l for a horizontal distance of l0,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which would exceed a standard of subsection (a)(1) or (a)(2) of this Section, if adjusted upward: l7 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of l7 feet vertical distance; l5 feet for any other public roadway; l0 feet or the height of the highest

mobile object that would normally traverse the road, whichever is greater, for a private road; 23 feet for a railroad; and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it.

4) Any construction or alteration that would exceed a standard of the Act or this Part.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Scott Joint-Use Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.

c) Form and Time of Notice

1) Each person who is required to notify the Department under subsection (a) of this Section shall forward one executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A of this Part) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) of this Section does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five days. For example, an emergency could include breaks in sewer lines, gas mains or power lines.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) of this Section within 30 days after receipt of such notice.

2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would, under federal rules, require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-l, as provided in l4 CFR 77.ll (b)(3), January l, l990, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or

B) Would not exceed any standard of the Act or this Part; or

C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code l4), or this Part; or

D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 77.100 Enforcement

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

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Section 77.110 Appeal and Judicial Review

a) *Appeal – any person aggrieved by any decision of the Department made in administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceedings before Board of Appeal shall govern such application to the Department*. (Section 29 of the Act)

b) Judicial Review – Any person aggrieved or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of St. Clair County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions the Administrative Review Law (Ill. Rev. Stat. 1991, ch. 110, pars. 3-101 et seq.) [735 ILCS 5/3-101 et seq.].

Section 77.120 Penalties

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense*, and such hazard shall be removed by proper legal proceedings and *each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the* Circuit Court of St. Clair County, Illinois, or *circuit court of any county in which the airport hazard* is wholly or partly *located, an action to prevent* and *restrain, correct or abate, any violation of* these *zoning regulations, or of any* regulation, *order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of* these zoning *regulations* as *adopted and orders and rulings made pursuant thereto.* (Section 34 of the Act)

Section 77.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 77.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which

can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

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Section 77.EXHIBIT A Proposed Construction Permit Request

ILLINOIS DEPARTMENT OF TRANSPORTATION
Division of Aeronautics

Name of Individual or Company
Making Request _____

Address _____
Street City Zip Phone

Nature and Description of Proposed Structure:		New Construction				
		Alteration				
	Nearest Town:					
	Location from Nearest Town					
	Direction			Distance		
	Nearest Airport:					
	From Nearest Point to a Runway					
	Direction			Distance		
	Latitude			Longitude		
	°	'	"		'	"

Proposed Heights and Elevations			
Site Elevation (Mean Sea Level)			Feet
Highest Point of Structure Above Ground			Feet
Overall Height above Mean Sea Level			Feet
Estimated Construction Starting Date			
Estimated Construction Completion Date			
Type of Structure:	Permanent	Temporary	
Will Structure be Obstruction Lighted:	Yes	No	
Will Structure be Obstruction Marked:	Yes	No	
Remarks:			

Date:	Title or Position:	Signature

The Illinois Department of Transportation is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Section 1 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.1). Disclosure of this information is REQUIRED. Failure to provide any

information will result in denial of the construction permit. This form has been approved by the Forms Management Center.
DA-39 (Rev. 1-87) IL 494-0765

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1) Heading of the Part: Southern Illinois Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 80

3)

Section Numbers:	Proposed Action:
80.5	Repeal
80.10	Repeal
80.20	Repeal
80.30	Repeal
80.40	Repeal
80.50	Repeal
80.60	Repeal
80.70	Repeal
80.80	Repeal
80.90	Repeal
80.100	Repeal
80.110	Repeal
80.120	Repeal
80.130	Repeal
80.140	Repeal
80.150	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Southern Illinois Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports. It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

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

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

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

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

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

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14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 80
SOUTHERN ILLINOIS AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

80.5 Introduction
80.10 Short Title
80.20 Definitions
80.30 Surfaces and Height Limitations
80.40 Use Restrictions
80.50 Non-Conforming Uses
80.60 Permits
80.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
80.80 Variances
80.90 Notice of Construction or Alteration
80.100 Enforcement
80.110 Appeal and Judicial Review
80.120 Penalties
80.130 Conflicting Regulations
80.140 Severability
80.150 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Filed and effective July 7, 1976; codified at 6 Ill. Reg. 15291; repealed at 32 Ill. Reg. _____, effective _____.

Section 80.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Southern Illinois Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Southern Illinois

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Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Southern Illinois Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of Southern Illinois Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act as approved July 17, 1945, (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Southern Illinois Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Southern Illinois Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Southern Illinois Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards by prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics of the State of Illinois, that the zoning regulations for Southern

DEPARTMENT OF TRANSPORTATION

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Illinois Airport be adopted as follows:

Section 80.10 Short Title

These zoning regulations shall be known and may be cited as "Southern Illinois Airport Hazard Zoning Regulations".

Section 80.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Southern Illinois Airport located near Carbondale, Area No. 1-230.22 acres; the Southeast ¼ and part of the east ½ of the Southwest ¼ of Section 31; also the Northwest ¼ of the Southwest ¼ of Section 32; Area No. 2-90.84 acres; a part of the Northeast ¼ of Section 31, all in Township 8 South, Range 1 West of the Third Principal Meridian, Area No. 4-80 acres; a part of the Northeast ¼ of Section 6, Township 9 South, Range 1 West of the third Principal Meridian, Jackson County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 411' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 37º 46' 44" North and Longitude 89º 15' 08" West.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent

or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 80.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 80.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 80.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the

most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Southern Illinois Airport consisting of three (3) sheets, prepared by Horner and Shifrin, Inc., St. Louis, Missouri, and dated August 7, 1975, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.) and revised on March 26, 1976. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height herein established for such surface.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevation of 411' feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the

same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

3) The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility

minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surfaces – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90~) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 411' above mean sea level. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90~) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level and above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Southern Illinois Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 80.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create

electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 80.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 80.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Southern Illinois Airport Authority.

Section 80.60 Permits

a) Future Uses – Except as specifically provided in paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, and with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions or primary, transitional and approach surfaces as set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surfaces.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 80.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 80.80 Variances

a) General – Any person desiring to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 80.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 80.30 hereof with respect to Southern Illinois Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this Section.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Southern Illinois Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional

purpose.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62705. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further

aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 80.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

Section 80.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Jackson County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, par. 1-101 et seq.) as amended.

Section 80.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not

more than Two Hundred Dollars ($200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Jackson County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 80.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, or the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 80.140 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end the provisions of these zoning regulations are declared to be severable.

Section 80.150 Effective Date

a) Whereas, the immediate application of the provisions of these zoning regulations is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.

b) Adopted by the Division of Aeronautics on this 28th day of April, 1976.

c) Concurred in by the Illinois Commerce Commission on this 30th day of June, 1976.

d) Certified copy filed with the Secretary of State's Office on this 7th day of July,

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1976.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Taylorville Municipal Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 86

3)

Section Numbers:	Proposed Action:
86.10	Repeal
86.20	Repeal
86.30	Repeal
86.40	Repeal
86.50	Repeal
86.60	Repeal
86.70	Repeal
86.80	Repeal
86.90	Repeal
86.100	Repeal
86.110	Repeal
86.120	Repeal
86.130	Repeal
86.140	Repeal
86.150	Repeal
86.160	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Taylorville Municipal Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

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C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 86
TAYLORVILLE MUNICIPAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

86.10 Introduction
86.20 Short Title
86.30 Definitions
86.40 Surfaces and Height Limitations
86.50 Use Restrictions
86.60 Non-Conforming Uses
86.70 Permits
86.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
86.90 Variances
86.100 Notice of Construction or Alteration
86.110 Enforcement
86.120 Appeal and Judicial Review
86.130 Penalties
86.140 Conflicting Regulations
86.150 Severability
86.160 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Adopted at 3 Ill. Reg. 50, p. 295, effective December 5, 1979; codified at 6 Ill. Reg. 15297; repealed at 32 Ill. Reg. _____, effective _____.

Section 86.10 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Taylorville Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Taylorville

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Municipal Airport zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the City of Taylorville, a municipal corporation of the State of Illinois, as owner and operator of Taylorville Municipal Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act as approved July 17, 1945, (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Taylorville Municipal Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Taylorville Municipal Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Taylorville Municipal Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Aeronautics, State of Illinois, that the zoning regulations for Taylorville Municipal Airport be adopted as follows:

Section 86.20 Short Title

These zoning regulations shall be known and may be cited as "Airport Hazard Zoning Regulations for Taylorville Municipal Airport".

Section 86.30 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Taylorville Municipal Airport located near Taylorville, in the Northeast ¼ of Section 32, Township 13 North, Range 2 West of the Third Principal Meridian; also a strip of land approximately 2040' X 305', a part of the East ½ of the East ½ of the Southeast ¼ of Section 32, Township 13 North, Range 2 West of the Third Principal Meridian, Christian County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 622.0' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 39º 32' 10" and Longitude 89º 19' 47".

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

DEPARTMENT OF TRANSPORTATION

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"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" - Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" - A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" - A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" - An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" - Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 86.40 hereof.

"Precision Instrument Runway" - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" - An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" - A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" - The State of Illinois.

"Structure" - Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" - A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" - A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 86.90.

"Visual Runway" - A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 86.40 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the

most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Taylorville Municipal Airport prepared by William J. Murray and Associates, Inc., of Springfield, Illinois, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 622.00 feet above mean sea level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by

tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as

low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches:

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90~) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 622.0' AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90~) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level and above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Taylorville Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 86.50 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility

in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 86.60 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 86.60(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of Taylorville.

Section 86.70 Permits

a) Future Uses – Except as specifically provided in paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical

height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 86.80 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to

conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 86.90 Variances

a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 86.100 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 86.40 hereof with respect to Taylorville Municipal Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this paragraph.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department or these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Taylorville Municipal Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent

and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) of this Section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard

to air navigation; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 86.110 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

Section 86.120 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Christian County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, par. 3-101 et seq.).

Section 86.130 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a petty offense, and such hazard shall be removed by proper legal proceedings and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Christian County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 86.140 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 86.150 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 86.160 Effective Date

a) These zoning regulations shall be in full force and effect from and after concurrence by the Illinois Commerce Commission, adoption by the Department and ten (10) days after filing with the Secretary of State.

b) Concurred in by Order of the Illinois Commerce Commission dated October 31, 1979.

c) Adopted by Order of the Division of Aeronautics dated November 16, 1979.

d) Filed with the Office of the Secretary of State on December 5, 1979 and became effective on December 5, 1979.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Vandalia Municipal Airport Hazard Zoning Regulations

2) Code Citation: 92 Ill. Adm. Code 88

3)

Section Numbers:	Proposed Action:
88.5	Repeal
88.10	Repeal
88.20	Repeal
88.30	Repeal
88.40	Repeal
88.50	Repeal
88.60	Repeal
88.70	Repeal
88.80	Repeal
88.90	Repeal
88.100	Repeal
88.110	Repeal
88.120	Repeal
88.130	Repeal
88.140	Repeal
88.150	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Vandalia Municipal Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

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C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 88
VANDALIA MUNICIPAL AIRPORT HAZARD ZONING REGULATIONS (REPEALED)

Section

88.5 Introduction
88.10 Short Title
88.20 Definitions
88.30 Surfaces and Height Limitations
88.40 Use Restrictions
88.50 Non-Conforming Uses
88.60 Permits
88.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
88.80 Variances
88.90 Notice of Construction or Alteration
88.100 Enforcement
88.110 Appeal and Judicial Review
88.120 Penalties
88.130 Conflicting Regulations
88.140 Severability
88.150 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Emergency rule adopted December 28, 1977; codified at 6 Ill. Reg. 15299; repealed at 32 Ill. Reg. _____, effective _____.

Section 88.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Vandalia Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Vandalia Municipal Memorial Airport zoning map (Note: this zoning map can be viewed

at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Vandalia Park District, a municipal corporation of the State of Illinois, as owner and operator of Vandalia Municipal Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Vandalia Municipal Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Vandalia Municipal Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Vandalia Municipal Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expand public funds and acquire land or interests in land.

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Vandalia Municipal Airport be adopted as follows:

DEPARTMENT OF TRANSPORTATION

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Section 88.10 Short Title

These zoning regulations shall be known and may be cited as "Vandalia Municipal Airport Hazard Zoning Regulations".

Section 88.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Vandalia Municipal Airport located near Vandalia, in Section 2, Township 6 North, Range 1 West of the Third Principal Meridian, Fayette County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 542.0' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 38~ 59' 27" N and Longitude 89~ 09' 51" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics

"Height" – The overall height of the top of a structure including any appurtenance

installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Growth" – Any object of natural growth, including trees, shrubs or foliage.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Department of Transportation, Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 88.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by a Federal Aviation Administration (FAA) Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 1 to 100 means one foot vertically for each one hundred feet of horizontal distance.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 88.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 88.30 Surfaces and Height Limitations

a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface,

conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Vandalia Municipal Airport, dated March 6, 1977, consisting of two (2) sheets prepared by William J. Murray and Associates, Consulting Engineers, Springfield, Illinois, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surface.

4) The various surfaces are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150' above the established airport elevations of 542.0' AMSL, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and

transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250' for utility runways having only visual approaches;

B) 500' for utility runways having non-precision instrument approaches;

C) For other than utility runways, the width is:

i) 500' for visual runways having only visual approaches;

ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;

iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250' for that end of a utility runway with only visual approaches;

B) 1,500' for that end of runway other than a utility runway with only visual approaches;

C) 2,000' for that end of a utility runway with a non-precision instrument approach;

D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile;

F) 16,000' for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;

B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000' at a slope of 50' horizontally for each foot vertically with

an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface – These surfaces extend outward and upward at right (90~) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 542' above mean sea level (AMSL). Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90~) angles to the runway centerline.

g) Circling Approach Surface – This is a surface 200' above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Vandalia Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land.

Section 88.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots

and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 88.50 Non-Conforming Uses

a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations, or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 88.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Vandalia Park District.

Section 88.60 Permits

a) Future Uses – Except as specifically provided in paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway,

except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 88.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit, or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered,

removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 88.80 Variances

a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 88.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 88.30 hereof with respect to Vandalia Municipal Airport:

1) Any construction or alteration of more than 200' in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at the following slope: 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a

height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this paragraph.

4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the Federal Aviation Administration (FAA) Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Vandalia Municipal Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.

3) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

c) Form and Time of Notice

1) Each person who is required to notify the Department under paragraph (a) above shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, North Walnut Street Road, Springfield, Illinois 62705. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (b) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above.

2) The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would not exceed any standard of the statute, rules and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or

B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or

C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a

hazard to air navigation; or

D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or

E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 88.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

Section 88.110 Appeal and Judicial Review

a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Fayette County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, "The Administrative Review Law" (Ill. Rev. Stat. 1981, ch. 110, par. 1-101 et seq.).

Section 88.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars ($200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Fayette County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning

regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 88.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 88.140 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end the provisions of these zoning regulations are declared to be severable.

Section 88.150 Effective Date

a) Whereas, the immediate application of the provisions of these zoning regulations is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.

b) Adopted by the Division of Aeronautics on the 19th day of September, 1977.

c) Concurred in by the Illinois Commerce Commission on the 21st day of December, 1977.

d) Certified copy filed with the Secretary of State's Office on the 28th day of December, 1977.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Waukegan Memorial Airport Zoning Regulations

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

3)

Section Numbers:	Proposed Action:
92.5	Repeal
92.10	Repeal
92.20	Repeal
92.30	Repeal
92.40	Repeal
92.50	Repeal
92.60	Repeal
92.70	Repeal
92.80	Repeal
92.90	Repeal
92.100	Repeal
92.110	Repeal
92.120	Repeal
92.130	Repeal
92.140	Repeal
92.150	Repeal
92.160	Repeal

4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Waukegan Regional Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports. It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

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C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 92
WAUKEGAN MEMORIAL AIRPORT ZONING REGULATIONS (REPEALED)

Section
92.5 Introduction
92.10 Short Title
92.20 Definitions
92.30 Zones
92.40 Height Limitations
92.50 Use Restrictions
92.60 Non-Conforming Uses
92.70 Spacing Adjacent Airports, Restricted Landing Areas, Restricted Landing Area-Heliports
92.80 Permits
92.90 Non-Conforming Structures or Uses Abandoned or Destroyed
92.100 Variances
92.110 Enforcement
92.120 Judicial Review
92.130 Penalties
92.140 Conflicting Regulations
92.150 Severability
92.160 Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Filed and effective December 22, 1972; codified at 6 Ill. Reg. 15303; repealed at 32 Ill. Reg. _____, effective _____.

Section 92.5 Introduction

a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Waukegan Memorial Airport by creating airport approach zones, transition zones, horizontal zones and conical zones, and establishing the boundaries thereof;

providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Waukegan Memorial Airport zoning map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C); which is incorporated into and made a part of this regulation; providing for enforcement; and imposing penalties in the interest of public safety and welfare.

b) These zoning regulations are adopted at the request of the Waukegan Port District, a municipal corporation of the State of Illinois, as owner and operator of Waukegan Memorial Airport, pursuant to the authority conferred by an Act entitled, "The Airport Zoning Act" (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Waukegan Memorial Airport and of occupants of land or to property in its vicinity, and also, if the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Waukegan Memorial Airport and the public investment therein.

1) Accordingly, it is declared:

A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Waukegan Memorial Airport;

B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and

C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.

2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

DEPARTMENT OF TRANSPORTATION

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c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Waukegan Memorial Airport be adopted as follows:

Section 92.10 Short Title

These zoning regulations shall be known and may be cited as "Waukegan Memorial Airport Hazard Zoning Regulations".

Section 92.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Waukegan Memorial Airport located in the Southeast ¼ of the Northeast ¼ of Section 31, Township 46 North, Range 12 East of the Third Principal Meridian, Lake County, Illinois; the Northeast ¼ of the Southeast ¼ of Section 31, Township 46 North, Range 12 East of the Third Principal Meridian, in Lake County, Illinois; all that part of the South ½ of the Northwest ¼ of Section 32, Township 46 North, Range 12 East of the Third Principal Meridian, in Lake County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 728.30' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 42~ 25' 18" N and Longitude 87~ 52' 00" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

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"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Instrument Runway" – A runway equipped or to be equipped with a precision electronic navigation aid or landing aid or other air navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Instrument Runway" – A runway other than an instrument runway.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Sections 92.30 and 92.50 hereof.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 92.100.

Section 92.30 Zones

In order to carry out the provisions of these zoning regulations, there are hereby created and established certain zones which include all of the land lying within the instrument approach zones, non-instrument approach zones, transition zones, horizontal zone and conical zone. Such areas and zones are shown on Airport Zoning plan for the Waukegan Memorial Airport, consisting of three (3) sheets, prepared by J. M. Audd and Associates, and dated January 13, 1971, and referred to hereinafter as the Zoning Map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C). The various zones are hereby established and defined as follows:

a) Instrument Approach Zone – an instrument approach zone is hereby established at each end of the instrument runway for instrument landings and take-offs. The instrument approach zones shall have a width of One Thousand (1000) feet at a point Two Hundred (200) feet beyond each of the runway, widening thereafter uniformly to a width of Sixteen Thousand (16,000) feet at a distance of Fifty Thousand Two Hundred (50,200) feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

b) Non-Instrument Approach Zone – a non-instrument approach zone is established at each end of all non-instrument runway for non-instrument landings and take-offs. The non-instrument approach zone shall have a width of Five Hundred (500) feet at a point Two Hundred (200) feet beyond each end of the runway,

widening thereafter uniformly to a width of Two Thousand Five Hundred (2,500) feet at a distance of Ten Thousand Two Hundred (10,200) feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

c) Transition Zones – transition zones are hereby established adjacent to both the instrument and non-instrument runways and approach zones as indicated on the zoning map. Transition zones located normal to and at the elevation of the centerline of the instrument and non-instrument runways, have variable widths as shown on the zoning map. Transition zones extend outward from a line 250 feet normal to and at the elevation of the centerline of the non-instrument runway, for the length of such runway plus 200 feet on each end; and 500 feet normal to and at the elevation of the centerline of the instrument runway, for the length of such runway plus 200 feet on each end, and are parallel and level with such runway centerlines. The transition zones along such runways slope upward and outward one (1) foot vertically for each seven (7) feet horizontally to the point where they intersect the surface of the horizontal zone. Further, transition zones are established adjacent to both the instrument and non-instrument approach zones, having variable widths, as shown on the zoning map. Such transition zones flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one (1) foot vertically for each seven (7) feet horizontally to the points where they intersect the surfaces of the horizontal and conical zones. Additionally, transition zones are established adjacent to each instrument approach zone where it projects through and beyond the limits of the conical zone, extending a distance of 5000 feet measured horizontally from the edge of the instrument approach zones at right angles to the continuation of the centerline of the runway.

d) Horizontal Zone – a horizontal zone is hereby established as the area within a circle with its center at the Airport Reference Point and having a radius of Thirteen Thousand (13,000) feet. The horizontal zone does not include the instrument and non-instrument approach zone and the transition zones.

e) Conical Zone – a conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of Seven Thousand (7000) feet. The conical zone does not include the instrument approach zones and transition zones.

Section 92.40 Height Limitations

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Except as otherwise provided in these zoning regulations, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

a) Instrument Approach Zone – One (1) foot in height for each fifty (50) feet in horizontal distance beginning at a point Two Hundred (200) feet from and at the centerline elevation of the end of the distance of Ten Thousand Two Hundred (10,200) feet from the end of the runway, thence One (1) foot in height for each Forty (40) feet in horizontal distance to a point Fifty Thousand Two Hundred (50,200) feet from the end of the runway.

b) Non-Instrument Approach Zones – One (1) foot in height for each Forty (40) feet horizontal distance beginning at a point Two Hundred (200) feet from and at the centerline elevation of the end of the non-instrument runway and extending to a point Ten Thousand Two Hundred (10,200) feet from the end of the runway.

c) Transition Zones – These surfaces extend outward and upward one (1) foot in height for each seven (7) feet in horizontal distance perpendicular to the runway centerline until they meet the horizontal or conical surfaces and beginning at a point 250 feet on either side and normal to and at the elevation of the centerline of non-instrument runways, extending 200 feet beyond each end thereof, and 500 feet on either side and normal to and at the elevation of the centerline of the instrument runway, extending 200 feet beyond each end thereof, extending upward to a maximum height of 150 feet above the established airport elevation which is 728.3 feet above mean sea level. In addition to the foregoing, there are established height limits of one (1) foot vertical height for each seven (7) feet horizontal distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal and conical surfaces. Further, where the instrument approach surface projects through and beyond the conical zone, a height limit of one (1) foot for each seven (7) feet of horizontal distance shall be maintained beginning at the edge of the instrument approach zone and extending a distance of 5000 feet from the edge of the instrument approach zone measured normal to the continuation of the centerline of the runway extended.

d) Horizontal Zone – The horizontal zone shall have an elevation of 150 feet above the established airport elevation (728.3 feet MSL) or an elevation of 878.3 feet

above mean sea level.

e) Conical Zone – The conical zone is one (1) foot in height for each Twenty (20) feet of horizontal distance beginning at the periphery of the horizontal zone extending to a height of 1,044 feet above the airport elevation.

Section 92.50 Use Restrictions

a) General – Notwithstanding any other provisions of these zoning regulations, no use may be made of land within any zone established by these zoning regulations in such a manner as to create electrical or electronic interference with radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for flyers because of the difficulty in distinguishing between airport lights and others, or which result in glare in the eyes of flyers using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of flyers and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

b) Land Use Restriction Zone – The land use Restriction Zone shall be those areas underneath the approach zones, including the Transitional Zones, at the ends of each runway to a distance of 10,200 feet from the end of the runway. The Waukegan Port District shall make every effort to discourage further development of residential buildings and places of public assembly involving educational, institutional, amusement, and recreational uses within the land use restriction zone. Any repeal or application for an amendment, variation, or special use to a zoning ordinance or other ordinance of a political subdivision affecting land use within the land use restriction zone shall require a public hearing and notice to be made to the Waukegan Port District, the Department and the Federal Aviation Administration, at least thirty (30) days prior to the public hearing.

Section 92.60 Non-Conforming Uses

a) Regulations Not Retroactive – These zoning regulations prescribed by this zoning regulation shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as

of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.

b) Marking and Lighting – Notwithstanding the provisions of Section 92.60(a), the owner of any existing non-conforming structure is hereby required to permit the trimming of trees or the installation, operation and maintenance on such structures of markers and lights as shall be deemed necessary by the Department to indicate to flyers in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Waukegan Port District.

Section 92.70 Spacing Adjacent Airports, Restricted Landing Areas, Restricted Landing Area-Heliports

No airport or restricted landing area or restricted landing area-heliport shall be established within the zones hereinbefore described.

Section 92.80 Permits

After the effective date of these zoning regulations, the plans and specifications submitted by any person in connection with the application for a building permit must be in compliance with the regulations as herein set forth and with the requirements of the Federal Aviation Regulations Objects Affecting Navigable Airspace (14 CFR 77) issued by the Federal Aviation Administration, and with the Airport Zoning Act of the state of Illinois Revised Statutes. Any permit issued in contravention of these zoning regulations shall be void.

Section 92.90 Non-Conforming Structures or Uses Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use has been abandoned or more than 80 per cent torn down, destroyed or deteriorated:

a) No permit shall be granted that will allow such structure or use to exceed the applicable height limit or otherwise deviate from these zoning regulations; and

b) Whether application is made for a permit or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use, at his own expense, to lower, remove, reconstruct, or equip such structure or use as

may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 92.100 Variances

a) General – Any person desiring to erect or increase the height of any structure, or permit any growth of any tree, or use his property, not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure to permit, at the expense of the Waukegan Port District, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to flyers the presence of such structure.

Section 92.110 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for variances required by these zoning regulations to be submitted to the Department shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

Section 92.120 Judicial Review

Any person aggrieved, or any taxpayer affected, by any decision of the Department may appeal to the Circuit Court of Lake County, Illinois, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, par. 3-101 et seq.).

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Section 92.130 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars ($200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of the 19th Judicial Circuit, Lake County, Illinois, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 92.140 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 92.150 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 92.160 Effective Date

a) Whereas, the immediate application of the provisions of these zoning regulations is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.

b) Adopted by the Department of Aeronautics on the 10th day of January, 1972.

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c) Concurred in by the Illinois Commerce Commission this 25th day of October, 1972, under Docket #57199.

d) Certified copy filed with the Secretary of State this 22nd day of December, 1972.

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1) Heading of the Part: Pal-Waukee Municipal Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 96

3)

Section Numbers:	Proposed Action:
96.10	Repeal
96.20	Repeal
96.30	Repeal
96.40	Repeal
96.50	Repeal
96.60	Repeal
96.70	Repeal
96.80	Repeal
96.90	Repeal
96.100	Repeal
96.110	Repeal
96.120	Repeal
96.130	Repeal
96.140	Repeal
96.EXHIBIT A	Repeal

4) Statutory Authority: Implementing and authorized by Section 17 of the Airport Zoning Act [620 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Chicago Executive Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports. It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will have no impact on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 96
PAL-WAUKEE MUNICIPAL AIRPORT
HAZARD ZONING (REPEALED)

Section

96.10 Introduction
96.20 Definitions
96.30 Surfaces and Height Limitations
96.40 Use Restrictions
96.50 Non-Conforming Uses
96.60 Permits
96.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
96.80 Variances
96.90 Notice of Construction or Alteration
96.100 Enforcement
96.110 Appeal and Judicial Review
96.120 Penalties
96.130 Conflicting Regulations
96.140 Severability
96.EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1987, ch. 15½, par. 48.17).

SOURCE: Adopted at 13 Ill. Reg. 3384, effective March 1, 1989; repealed at 32 Ill. Reg. _____, effective _____.

Section 96.10 Introduction

a) These are zoning provisions regulating and restricting the height of structures and trees, and otherwise regulating the use of property in the vicinity of the Pal-Waukee Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Pal-Waukee Municipal Airport zoning map (Note: This zoning map can be viewed at the

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Department of Transportation, Division or Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18.Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) These zoning regulations are adopted at the request of the Village of Wheeling and the City of Prospect Heights, as owner and operator of Pal-Waukee Municipal Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1987, ch. 15½, pars. 48.1 et seq.). *It is hereby found that an airport hazard endangers the lives and property of users of* Pal-Waukee Municipal Airport *and of occupants of land* or property *in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of* Pal-Waukee Municipal Airport *and the public investment therein.*

1) *Accordingly, it is declared:*

A) *That the creation or establishment of an airport hazard is a public nuisance and an injury to the* region *served by* Pal-Waukee Municipal Airport;

B) *That it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and*

C) that the prevention of these hazards *should be accomplished to the extent legally possible, by the exercise of the police power, without compensation.*

2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and*/or *lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land* or interests in land. (Section 11 of the Act)

c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Pal-Waukee Municipal Airport be adopted.

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Section 96.20 Definitions

As used in this Part, unless the context otherwise requires:

"Airport" - The Pal-Waukee Municipal Airport located near Wheeling, situated in Section 13, Township 42 North, Range 11 East of the Third Principal Meridian, Cook County, Illinois; also known as Pal-Waukee Municipal Airport.

"Airport Elevation" - The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 647 feet above mean sea level (AMSL).

"Airport Hazard" - *Any structure, tree, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking-off at the airport*. (Section 3 of the Act)

"Airport Reference Point" - The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 42~ 06' 49.3" N and Longitude 87~ 54' 05.5" W.

"Alteration" - Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" - These surfaces are defined in Section 96.30 of this Part.

"Construction" - The erection or alteration of any structure either of a permanent or temporary character.

"Department" - The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Flight Safety Coordinator" - An employee of the Department whose duties include, but are not limited to inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

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"Height" - The overall height of the top of a structure including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Landing Area" - The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Non-Conforming Use" - Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" - A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FFA], or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Permit" - A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 96.60 of this Part.

"Person" - An *individual, firm*, partnership, *corporation, company, association, joint stock association, or body politic*, and includes a *trustee, receiver, assignee,* administrator, executor, guardian, *or other representative, and including this State* and the Division of Aeronautics.

"Political Subdivision" - *Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof*, situated in whole or in part within any of the surfaces established by Section 96.30 hereof.

"Precision Instrument Runway" - A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of

Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

"Runway" - An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" - A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" - *The State of Illinois*.

"Structure" - Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Tree" - Any object of natural growth.

"Utility Runway" - A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" - A grant of relief by the Department from the requirements of this Part, in accordance with Section 96.80.

"Visibility Minimums" - The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" - A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

Section 96.30 Surfaces and Height Limitations

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a) Establishment and Creation

1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18.Exhibits A, B and C) for Pal-Waukee Municipal Airport prepared by Crawford, Murphy & Tilly, Inc., Aurora, Illinois. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.

4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

1) A horizontal plane 150 feet above the established airport elevation of 647 feet Above Mean Sea Level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by

lines tangent to those arcs. The radius of each arc is:

A) 5,000 feet for all runways designated as utility or visual;

B) 10,000 feet for all other runways.

2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

d) Primary Surface

1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

A) 250 feet for utility runways having only visual approaches;

B) 500 feet for utility runways having non-precision instrument approaches;

C) For other utility runways, the width is:

i) 500 feet for visual runways having only visual approaches;

ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute miles;

iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface - A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

A) 1,250 feet for that end of a utility runway with only visual approaches;

B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;

C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;

D) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;

E) 4,000 feet for that end of a non-precision instrument runway, other

than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and

F) 16,000 feet for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;

B) 10,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and

C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface - These surfaces extend outward and upward at right (90º) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 647 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90º) angles to the runway centerline.

g) Circling Approach Surface - This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Pal-Waukee Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

h) Excepted Height Limitations - Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

Section 96.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

a) Electrical or Electronic Interference

1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.

2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.

b) Flashing or Illuminated Structures

1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.

2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which

would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 96.50 Non-Conforming Uses

a) Regulations Not Retroactive - Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part and is diligently prosecuted.

b) Marking and Lighting

1) Notwithstanding the provisions of Section 96.50(a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Village of Wheeling and the City of Prospect Heights.

2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 96.60 Permits

a) Future Uses - Except as specifically provided in subsections (1), (2), and (3) below, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 96.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Whenever the Department following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure* or use or tree *has been abandoned or more than 80 per cent* demolished, *destroyed*, physically *deteriorated, or decayed*:

a) *No permit shall be granted* by the Department *that would allow such structure* or use or tree *to exceed the applicable height limit or otherwise deviate from* these *zoning regulations; and*

b) *Whether application is made for a permit, or not, the Department may* issue an order pursuant to Section 96.70(c), in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling *the owner of the non-conforming structure* or use or tree, *at his own expense, to lower, remove, reconstruct, or equip such* structure or use or tree *as may be necessary to conform to* these zoning *regulations. If the owner of the non-conforming structure* or use or tree *shall neglect or refuse to comply with such order* within ten (10) *days after notice thereof, the Department may proceed to have* such structure or use or tree *so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the state, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the state by* suit in equity *for the enforcement thereof as in the case of other liens.* (Section 23 of the Act)

c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 96.80 Variances

a) General - *Any person* wishing to erect or increase the height of *any structure, or permit* any *growth, or use his property* not in accordance with these *zoning regulations, may apply to the Department for a variance from* these *zoning regulations. Such variances shall be allowed where* it is duly found that *a literal application or enforcement of* these *zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of* these *zoning regulations.* (Section 24 of the Act)

b) Marking and Lighting - Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.

c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 96.90 Notice of Construction or Alteration

a) Construction or Alteration Requiring Notice - The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established herein by Section 96.30 with respect to Pal-Waukee Municipal Airport:

1) Any construction or alteration of more than 200 feet in height above the ground level at its site.

2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.

B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.

3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where

overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subsection (a)(1) or (a)(2) of this Section.

4) Any construction or alteration that would exceed a standard of the Act or this Part.

b) Construction or Alteration Not Requiring Notice - No person is required to notify the Department for any of the following construction or alterations with respect to Pal-Waukee Municipal Airport:

1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.

c) Form and Time of Notice

1) Each person who is required to notify the Department under subsection (a) of this Section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter. For example an emergency could include breaks in sewer lines, gas mains or power lines.

d) Acknowledgment of Notice

1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) above within 30 days of receipt of such notice.

2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

A) Would under federal rules require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1F, September 27, 1978, as provided in 14 CFR 77.11(b)(3), January 1, 1983, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or

B) Would not exceed any standard of the Act or this Part; or

C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this Part; or

D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 96.100 Enforcement

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 96.110 Appeal and Judicial Review

a) Appeal - Any person aggrieved by any decision of the Department made in Administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceedings before Board of Appeal shall govern such application to the Department. (Section 29 of the Act)

b) Judicial Review - Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Cook County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled The Administrative Review Law (Ill. Rev. Stat. 1987, ch. 110, pars. 3-101 et seq.).

Section 96.120 Penalties

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense,* and such hazard shall be removed by proper legal proceedings and *each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the* Circuit Court of Cook County, Illinois, or *Circuit Court of any county in which the airport hazard* is wholly or partly *located, an action to prevent* and *restrain, correct or abate, any violation of* these *zoning regulations, or of any* regulation, *order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of* these zoning *regulations* as *adopted and orders and rulings made pursuant thereto.* (Section 34 of the Act)

Section 96.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 96.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 96.EXHIBIT A Proposed Construction Permit Request

ILLINOIS DEPARTMENT OF TRANSPORTATION
Division of Aeronautics

Name of Individual or Company
Making Request _____

Address _____
Street City Zip Phone

Nature and Description of Proposed Structure:			New Construction			
			Alteration			
	Nearest Town:					
	Location from Nearest Town					
	Direction		Distance			
	Nearest Airport:					
	From Nearest Point to a Runway					
	Direction		Distance			
	Latitude			Longitude		
	°	'	"		'	"

Proposed Heights And Elevations			
Site Elevation (Mean Sea Level)			Feet
Highest Point of Structure Above Ground			Feet
Overall Height above Mean Sea Level			Feet
Estimated Construction Starting Date			
Estimated Construction Completion Date			
Type of Structure:	Permanent	Temporary	
Will Structure be Obstruction Lighted:	Yes	No	
Will Structure be Obstruction Marked:	Yes	No	

Remarks:

Date:	Title or Position:	Signature

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

The Illinois Department of Transportation is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Section 1 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.1). Disclosure of this information is REQUIRED. Failure to provide any information will result in denial of the construction permit. This form has been approved by the Forms Management Center.
DA-39 (Rev. 1-87) IL 494-0765

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Business Logo Signing Program

2) Code Citation: 92 Ill. Adm. Code 542

3)

Section Numbers:	Proposed Action:
542.100	Amend
542.200	Amend
542.400	Amend
542.450	New Section
542.500	Amend
542.600	Amend
542.APPENDIX B	Amend

4) Statutory Authority: Implementing Section 4.08 of the Highway Advertising Control Act of 1971 [225 ILCS 440/4.08] and Section 2705-505 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-505], and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1], Section 14.01 of the Highway Advertising Control Act of 1971 [225 ILCS 440/14.01], and Section 2705-505 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-505]

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to amend this Part to revise the listing of areas, at Section 542.100, eligible for signing under this Part. Upon adoption of this rulemaking, the Department will allow signs along portions of Interstate 74 through Peoria and along Interstate 80 within Cook County.

At Sections 542.400(d)(4), (5) and (6) and 542.600(b)(1), the Department is revising language as a result of an audit conducted by the Illinois Office of Internal Audit. Based on the audit, a recommendation was made that the Department provide for a processing fee rather than an application fee because submission of a processing fee at the time the sign design is submitted, rather than at the time of application, will ensure the timely deposit of the fee into State funds.

Additionally, the Department is adding a new Section and revising several other Sections to allow signing for RV movement and parking at business establishments. The RV provisions are being included pursuant to the national Manual on Uniform Traffic Control Devices.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Finally, Appendix B is being revised for consistency with current Department organization of Districts.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

Mr. Joseph S. Hill, Chief, Bureau of Operations
Illinois Department of Transportation
Division of Highways
2300 South Dirksen Parkway, Room 009
Springfield, Illinois 62764

217/782-7231

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses and not for profit corporations that qualify will be impacted to the extent that such businesses and corporations wish to participate in the program.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 542
BUSINESS LOGO SIGNING PROGRAM

Section
542.100 Introduction
542.200 Definitions
542.300 Criteria for Specific Service Panels
542.400 Criteria for Business Signs
542.450 Criteria for RV-friendly Symbol Signs
542.500 Panel and Sign Design
542.600 Application, Fees, and Other Regulations
542.APPENDIX A District Boundary Map (Repealed)
542.APPENDIX B District Offices and Counties
542.ILLUSTRATION A Typical Signing for Single-Exit Interchanges (Repealed)
542.ILLUSTRATION B Typical Signing for Double-Exit Interchanges (Repealed)
542.ILLUSTRATION C Example Where an Existing Directional Sign Interferes with Normal Panel Spacing (Repealed)
542.ILLUSTRATION D Example Where all Panels Cannot be Erected Ahead of the First Advance Guide Sign (Repealed)
542.ILLUSTRATION E Example of Trailblazer Assembly (Repealed)
542.ILLUSTRATION F Examples of Interstate Panels for Single-Exit Interchanges (Repealed)
542.ILLUSTRATION G Examples of Interstate Panels for Double-Exit Interchanges (Repealed)
542.ILLUSTRATION H Example of Two Services on One Interstate Panel (Repealed)
542.ILLUSTRATION I Examples of Specific Service Panels Along a Single-Exit Interchange Exit Ramp (Repealed)
542.ILLUSTRATION J Examples of Specific Service Panels Along a Double-Exit Interchange Exit Ramp (Repealed)

AUTHORITY: Implementing Section 4.08 of the Highway Advertising Control Act of 1971 [225 ILCS 440/4.08] and Section 2705-505 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-505], and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1], Section 14.01 of the Highway Advertising Control Act of 1971 [225 ILCS 440/14.01], and Section 2705-505 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-505].

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted at 5 Ill. Reg. 12823, effective November 3, 1981; codified at 6 Ill. Reg. 15255; Part repealed, new Part adopted at 10 Ill. Reg. 6996, effective April 16, 1986; amended at 24 Ill. Reg. 12736, effective September 1, 2000; amended at 27 Ill. Reg. 7880, effective April 21, 2003; amended at 30 Ill. Reg. 5650, effective March 10, 2006; amended at 32 Ill. Reg. _____, effective _____.

Section 542.100 Introduction

a) This Part has been developed to regulate the use of business logos displayed along various freeways. It establishes standards, specifications, and financial responsibility for a program of placing business logos on specific service panels. The displayed business logos will provide motorists with travel related directional information to facilities offering gas, food, lodging, camping, and 24-hour pharmacies.

b) This program applies to freeways within the State of Illinois that are under the jurisdiction of the Department. However, because of the close spacing of interchanges, presence of existing critical directional signs, and congestion in the densely populated Chicago, Peoria and St. Louis metropolitan areas, this program will not apply to the following sections of highways.

1) Interstate 57 from the southerly Chicago city limits northerly to its terminal with Interstate 94;

2) Interstate 55 from Interstate 294 northerly to Lake Michigan;

3) Interstate 90;

4) Interstate 94 from the southerly Chicago city limits northerly to the Wisconsin state line;

5) Interstate 290;

6) Interstate 55/70 from Interstate 255 southerly to the Missouri state line;

7) Interstate 64 from, but not including, Exit 6 westerly to the Missouri state line;

8) Interstate 74 through Peoria between and including the Sterling Avenue interchange (Exit 88) and the Washington Avenue interchange (Exit 95), except for the eastbound off-ramp to Sterling Avenue and the westbound off-ramp to Washington Street~~Interstate 74 from, and including, the interchange with Interstate 474 west of Peoria easterly to, and including, the interchange with Interstate 474 east of Peoria~~;

9) Interstate 74 from, and including, Exit 4 northerly to the Iowa state line;

10) Illinois 394 except for the Glenwood Dyer Road and US 30 interchanges; and

11) Any other freeway in Cook and DuPage Counties except for Interstate 80.

c) In an urbanized area where three consecutive freeway interchanges are each spaced less than one and one-quarter miles apart, logo signing will not be provided.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 542.200 Definitions

The following words or phrases when used in this Part shall have the meanings ascribed to them below.

"Ahead or Advance" – a sign is ahead or in advance of another when it is at a greater distance then the other from the crossroad being signed.

"Business" – an open establishment that provides gas, food, lodging, camping, or a 24-hour pharmacy as a motorist service to the general public.

"Business Sign" – a rectangular sign consisting of a business trademark, name, brand, symbol, or combinations thereof. This sign, also referred to as a logo sign, is displayed on a specific service panel or together with an arrow panel as a trailblazer sign.

"Crossroad" – a public road intersecting the freeway for which an interchange is provided.

DEPARTMENT OF TRANSPORTATION

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"Department" – the Illinois Department of Transportation, with central offices at 2300 South Dirksen Parkway, Springfield, Illinois 62764.

"District" – the organizational structure of the Department. The Department is divided into 5 Regions. Each Region, except Region 1, is then subdivided into 2 Districts. The program is administered in the District offices.

"Entrance or Exit Ramps" – lanes entering or leaving the main traveled way of a freeway. These lanes provide access between the freeway and the crossroad at an interchange.

"Fiscal Year" – a year beginning July 1 and ending the following June 30.

"Freeway" – a divided highway for through traffic with full control of access and grade separations at crossroads.

"Interchange" – a system of interconnecting ramps providing for the movement of traffic between two roadways on different levels.

"Interstate" – a freeway that is part of the National System of Interstate and Defense Highways and marked with an Interstate Route Number.

"RV-friendly Symbol Sign" - a symbol sign advising that a business establishment can accommodate the movement and parking of recreational vehicles (RVs).

"Service" – a type of facility used by motorists; namely gas, food, lodging, camping, or a 24-hour pharmacy.

"Specific Service Panel" – a rectangular panel, displaying the words GAS, FOOD, LODGING, CAMPING, or 24-HOUR PHARMACY and directional information, on which a business sign is mounted. A panel along the freeway is referred to as a "freeway panel" and a panel along the exit ramp or crossroad is referred to as an "exit ramp panel."

"Trailblazer Assembly" – a small sign guiding motorists from the ramp to the business. The sign is not required if the business can readily be seen from the crossroad. However, if motorists seeking the business must be directed to turn off the crossroad onto another road in order to reach the business, the sign becomes

necessary.

"Trailblazer Sign" – a business sign displayed, together with an arrow panel, off the freeway highway system to advise motorists where to turn on the crossroad (when necessary).

"Urbanized Area" – a municipality with a population of 50,000 or more, and its contiguous urban fringe with a population density of 1,000 or more inhabitants per square mile; or a municipality with at least a population of 25,000 together with other contiguous places (incorporated or unincorporated) each with a population density of 1,000 or more inhabitants per square mile, which altogether constitutes for general socioeconomic purposes a single community with a combined population of at least 50,000 inhabitants. The limits of urbanized areas are those approved by the Federal Highway Administration in accordance with Volume 4, Chapter 6, Section 3 of their Federal-aid Program Manual (23 USC 470.107(a)(2)).

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 542.400 Criteria for Business Signs

a) For those sections of freeway routes where business information signs are to be erected, any business establishment meeting the following criteria will be considered for placement of a business sign on a specific service panel.

b) General Criteria

1) GAS: Must be open 7 days a week for a minimum of 12 hours a day. It shall have normal service station goods and services, which are telephone, gas, oil, water, and restroom. An attendant must be present at the business at all times the business is open.

2) FOOD: Must be open any 6 days a week and serve at least two meals per day, or remain open for a minimum of 6 hours each day. It shall be certified by the Illinois Department of Public Health or local health department and have a restroom and telephone.

3) LODGING: Must be open 7 days a week. It shall have a telephone, restroom and sleeping accommodations. At least half of the

accommodations shall be available to the general public and shall not be restricted to members only.

4) CAMPING: Must be open 7 days a week for at least 6 months of the year. It shall have camping and parking accommodations, restroom, telephone, and drinking water. At least half of the accommodations shall be available to the general public and shall not be restricted to members only.

5) 24-HOUR PHARMACY: Must be open continuously 24 hours per day, 365 days per year, with an Illinois-licensed pharmacist present and on duty in the pharmacy at all times.

c) Distance to Business

1) In a nonurbanized area, a business providing gas, food, lodging, or a 24-hour pharmacy must be within three road miles from a freeway interchange, while a business providing camping must be within 20 road miles.

2) In an urbanized area, a business providing gas, food, lodging or a 24-hour pharmacy must be within one road mile from a freeway interchange, while a business providing camping must be within five road miles.

3) The distance to each business establishment will be measured as the travel distance between the end of the appropriate exit ramp and the business establishment. The distance to a business on a crossroad will be measured along the centerline of the crossroad from the end of the appropriate exit ramp to the center of the primary entrance to the business. Where the business is located along an intersecting road, the distance will be measured along the centerline of the crossroad to the centerline of the intersecting road and then measured along the centerline of the intersecting road to the center of the primary entrance to the business. Where an entrance serves more than one business, the driving distance using the proper marked driving aisles from the entrance to the parking space available for patrons nearest the business will be added to the distance measured along the crossroad or intersecting road. In the event the Department cannot determine which business establishment is closest to the appropriate exit ramp, priority for the available space will be determined by lottery, coin toss, or any other fair and impartial method

determined by the Department. The affected businesses will be allowed to witness such action.

4) Signing will be allowed for a business establishment on each freeway from which it qualifies. If a business establishment meets the criteria at more than one interchange on any one freeway, signing will be allowed only from the interchange providing the most direct and best route in each direction from that freeway to the business establishment. In determining the most direct and best route, the Department will consider all relevant conditions including the directness of the route, congestion of the route, speed of travel, length of travel, and ease of locating the facility.

d) Business Signing Priorities

1) A specific service panel shall have a maximum of six business signs. Where there may be more businesses eligible for and desiring signing than the number of signs permitted on a specific service panel, those businesses nearest the exit ramp intersection with the crossroad will be given first priority for signing. Because each exit at an interchange is treated separately, a business establishment may be eligible to sign for only one direction of travel along a freeway.

2) Those businesses that display their business signs on a freeway panel will be assured that the signs will not be removed because of a nearer business as long as they continue to meet the established criteria and continue to pay their annual fees.

3) Once businesses are selected for a particular panel, the eligible business closest to the interchange from which an application was received will have its sign placed on the available space closest to the top left of the panel, and the second closest business will be on the next available space horizontally. On panels for single-exit interchanges, after spaces on the top row are filled, signs will be placed along the next row or rows in the same manner. Signs will be arranged similarly for double-exit interchanges, except the business at the first exit will have signs on the top portion of the panels and businesses at the second exit will have signs at the bottom portion of the panels. If a business leaves the program and subsequently reapplies and is accepted back into the program, its new sign will be placed on the panel in the same place as its previous sign if the

space is available or, in the event the previous space has been assigned to another business, in the closest available space to its previous space. Once placed on a panel, requests from a business to relocate its business sign to other available locations on the panel will not be honored.

4) The Department will remove individual business signs within 15 calendar days after a business leaving the program for any reason and such empty space on the specific service panel will constitute public notice that such space is available for another qualifying business. When such removal of individual business signs causes space to become available on any specific service panel and where the panel had, up to that time, the maximum number of individual business signs allowed, the qualifying business closest to the interchange that submits a valid application, including the required application fee, within 45 calendar days after such removal, not counting the removal date, and that is open to the public on or before the end of the 45 day time period, will be allowed to display its business sign in the available space. If no qualifying business submits its application within the 45 day period, the first qualifying business that submits a valid application~~, including the required application fee,~~ and that is open to the public at the time the application is submitted, will be allowed to display its business sign in the available space.

5) When a business closes due to remodeling, or due to an act of God, including, but not limited to, fire or flood, the business shall notify the Department in writing of the closure within 30 calendar days. Following closure, the business sign will be removed and stored by the Department up to a maximum of six months. If the business remains closed after six months, the space will be declared available. In any event, if the allowable closure period extends to the subsequent fiscal year, the annual rental fee for the business must be paid for that year or the space will be declared available. If the business does not notify the Department in writing within 30 calendar days after the closure, and the Department becomes aware of such closure, the closure will be considered permanent, the business will lose its signing priority and the space will be declared available. When a space is declared available, a new application~~, including the $100 application fee,~~ must be submitted for inclusion in the program and its priority will be evaluated among all the other eligible businesses desiring signing at the interchange in question.

6) When the business service changes, such as a gas station changing to a food establishment, or when the business closes permanently, the business will lose its signing priority and the space will be declared available. If the business reopens, wishes to take part in this program and is still eligible for signing under this program, and if a space has been declared available, the business shall submit a new application~~, including the $100 application fee,~~ and its priority will be evaluated among all the other eligible businesses desiring signing at the interchange in question.

e) Location of Business

1) Business on the Crossroad
Where a business establishment providing gas, food, lodging, camping, or a 24-hour pharmacy is on the crossroad, it will be signed on a freeway panel if it is visible to the motorists from the crossroad, or if a sign is on the business site advising motorists of the appropriate entrance to the establishment.

2) Business Not on the Crossroad

A) Where a business establishment providing gas, food, lodging, or a 24-hour pharmacy is not on the crossroad, it will be signed on a freeway panel if it is visible to the motorists from the crossroad, or if it is visible from a road intersecting the crossroad and has a trailblazer assembly placed on the crossroad advising motorists where to turn. The Department will place such trailblazer signs on state highway crossroads for the fee established in Section 542.600(b)(2). Where the crossroad is under local agency jurisdiction, trailblazer signs will not be required if legible signs with directional information are present advising motorists where to turn. If such signs are not present, a business needing such signing will be allowed to participate in the program only if the Department can arrange an agreement covering the erection and maintenance of such trailblazer signs with the local agency.

B) A campground not on the crossroad can be signed on a freeway panel regardless of the number of turns required if legible signs with directional information are present advising motorists where to turn. The Department will erect trailblazer signs along State-

maintained highways for the fee established in Section 542.600(b)(2).

f) No business will be allowed more than one space on an individual specific service panel; however, a business could qualify for a business sign on more than one type of panel; e.g., both food and lodging.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 542.450 Criteria for RV-friendly Symbol Signs

The Department will furnish and install an RV-friendly symbol sign on a freeway specific service panel for any business establishment requesting an RV-friendly sign; however, the following requirements must be met.

a) The entrance to and egress from the business establishment shall be hard surfaced, kept free of potholes and at least 12 feet wide with a minimum swing radius of 50 feet to enter and exit the facility.

b) The entrance to and egress from the business establishment and the parking area shall be free of any electrical wires, tree branches, canopies or other obstructions up to 14 feet above the surface.

c) Fueling facilities with canopies are required to have a 14-foot clearance, and those selling diesel fuel are required to have pumps with non-commercial nozzles.

d) Fueling facilities must allow for pull-through with a swing radius of 50 feet.

e) Restaurants and 24-hour pharmacies shall have a minimum of 2 RV spaces that are a minimum of 12 feet wide and 65 feet long with a minimum swing radius of 50 feet to enter and exit the spaces.

f) Campgrounds shall have a minimum of 2 spaces that are a minimum of 18 feet wide and 45 feet long.

g) Business establishments shall post signs on their sites directing motorists to RV-friendly parking spaces and other on-site RV-friendly services.

(Source: Added at 32 Ill. Reg. _____, effective _____)

Section 542.500 Panel and Sign Design

a) Freeway Panel Design

1) At single-exit interchanges, the type of service and the exit number shall be displayed in one line above the business signs in white legend ten inches in height on a blue background.

2) At double-exit interchanges, the specific service panels shall consist of two sections, one for each exit. The top section shall display the business signs for the first exit and the lower section shall display the business signs for the second exit. The type of service and the exit number shall be displayed in a line above the business signs for each section. Where all businesses of a type of service are at only one exit, the specific service panel will be displayed similarly to that for a single-exit interchange.

3) When two types of services are combined on the same freeway panel, one service will be displayed on the top half of the panel and the other on the bottom half. The higher priority service shall be displayed on the top half.

b) Exit Ramp Panel Design

1) Along exit ramps of single-exit interchanges, the business signs will be displayed in similar order to that on the freeway, except that those businesses to the motorists' left will have signs placed at the top of the panel and those to the right will be at the bottom. Directional arrows will be shown on the panel by the Department.

2) Exit ramp panels of double-exit interchanges are designed similar to those of single-exit interchanges, except without directional arrows.

3) Services will be combined on exit ramp panels, similar to that provided in subsection (a)(3).

c) Business Sign Design

1) The business signs will be designed and supplied by the business to the Department. These signs shall consist of the business' name, trademark,

symbol, or combination thereof, providing it does not resemble any traffic sign, signal, or device. The business' trademark, name, etc., must be the primary message on the sign and directly related to the type of service being accommodated on the specific service panel. The business signs may also contain supplemental messages relating to the primary business, including credit cards honored by that business, ATM machines actually on the property that the business owns or leases, and messages such as "family restaurant", "buses welcome" and "diesel". Proprietary logos or symbols identifying a second business or a supplementary service, other than those identifying credit cards honored by the business, will not be allowed. A business sign may also contain one supplemental word message directly relating to a second motorist service, including, but not limited to, "food mart" on a gas sign, "gas" on a lodging sign, or "(name) restaurant" on a gas or lodging sign. Messages that are not related to motorist services, including, but not limited to, alcoholic beverages, area tourist attractions, dancing, lottery tickets, antiques, and vehicle sales will not be allowed as supplemental messages. Food signs for establishments that are closed one day a week shall include a supplemental message including the day of closure. Any supplemental messages must be an integral part of the business sign and not added as stickers or decals after the business sign has been installed. Any signs that are tampered with by adding or deleting supplemental messages or by altering the name, logo, or symbol or any other portion of the message or design subsequent to their installation will be removed by the Department and the business must furnish new signs in addition to the $50 per sign reinstallation fee required by Section 542.600(b)(4). Should the service indicated by a supplemental message be discontinued, the business must furnish new business signs without the discontinued message along with the $50 per sign reinstallation fee required by Section 542.600(b)(4) within 60 days after discontinuation of the service. Covering over the message will not be allowed. Supplemental messages may be omitted on ramp and trailblazer signs if the business desires. Signs shall be fabricated on an aluminum base material between .080 and .125 inches thick. High-performance reflectorized background sheeting material shall be utilized for the signs. The size of the signs to be placed on freeway panels, exit ramp panels, and trailblazer assemblies shall be as follows:

GAS	FOOD, LODGING, CAMPING, 24-HR

			PHARMACY	
	Height	Width	Height	Width
FREEWAY	48"	36"	60"	36"
EXIT RAMP	24"	18"	24"	18"
TRAILBLAZER	24"	18"	24"	18"

2) In order to ensure that the signs meet all of the requirements of this Section, businesses shall furnish a sign design to the Department for approval within 30 calendar days after approval of their application. If the sign design is not received by the Department within the 30 day time period, the space will be declared available.

3) Any campground not open the entire year must have its opening and closing months shown on its business signs on either the freeway or the exit ramps.

d) RV-friendly Symbol Sign Design

1) The RV-friendly symbol sign will be furnished and installed by the Department. The sign will consist of a 12-inch diameter, yellow circle with a ½-inch black border and a black upper case "RV" in 8-inch high letters within the circle.

2) The RV-friendly symbol sign will be located in the lower right-hand corner of the business sign and centered on a point 2-inches from the right-hand edge of the sign and 2-inches from the lower edge of the sign.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 542.600 Application, Fees, and Other Regulations

a) Application

1) As a freeway route is scheduled to have business logo signs displayed for the first time, the Department will publish in local newspapers a notice soliciting participation from businesses offering gas, food, lodging, camping, and a 24-hour pharmacy along that freeway.

2) Application forms will be available from the Department (see Section

542.Appendix A – District Offices and Counties for a listing of District addresses and phone numbers) for all businesses that could qualify to have business signs displayed on specific service panels. If a business wishes to participate in this program, it must complete an application form for each specific service for which it wishes to sign and submit it to the Department by the deadline date indicated in the newspaper notice. Applications received after the indicated date will be considered if space is still available on the freeway panels.

3) Where the Department determines from the initial application that the business meets the criteria listed in this Part and space is available, the application will be approved and returned to the business along with instructions concerning the number and location of the business signs, the annual fee, and other appropriate information.

b) Fees

1) A $100 processing~~application~~ fee for each type of service signing requested by a business establishment must be submitted to the Department at the time the sign design is submitted for approval, as required by Section 542.500(c)(2)~~with the application. The $100 application fee for each requested service signing not approved will be refunded.~~ A $100 processing~~application~~ fee will also be charged when a business reapplies for signing after its~~their~~ signs have been removed due to late rental payments or withdrawal from the program, or when a business changes its name and its ownership at the same time.

2) An annual rental fee sufficient to offset the cost of this program will be charged for each business sign displayed on a freeway panel, exit ramp panel, and trailblazer assembly. The annual rental fees as of July 1, 2006 will be $200 for each business sign displayed on a freeway panel, $130 for each business sign displayed on an exit ramp panel, and $30 for each business sign displayed on a trailblazer assembly. The Department will periodically adjust the fees to reflect the current cost of maintaining the signing system. Fee adjustments are subject to rulemaking. Fees will be collected on an annual basis. When a business establishment makes an annual payment, it will be guaranteed usage of the paid space on the specific service panel for the entire year, as long as it meets the established criteria. Any business closing or withdrawing from the program after

making its annual payment will not be given a refund. A prorated fee will be charged for signs erected for a partial year.

3) Where payment is not received by the Department within 30 calendar days after the due date, the business signs will be removed by the Department. Where receipt of payment is delinquent and a specific service panel is full, the business establishment will lose its signing priority to the next qualifying business desiring the space. When the fee is received after the business sign is removed, and space is still available on the panel, a fee of $100 will be charged for reapplication as provided for in subsection (b)(1), in addition to the annual fee for the remainder of the fiscal year, as well as that portion of the annual fee owed for the period of time between the end of the preceding fiscal year and the date the sign was removed.

4) A fee of $50 for each business sign will be charged for a business requesting that its signs be replaced with new signs for any reason other than due to deterioration, damage, or vandalism as provided for in subsection (c)(1) of this Section. Where such replacement is requested, all business signs for the specific business, including those on freeway and exit ramp panels, as well as any trailblazer signs, must be replaced at the same time.

5) An additional one-time fee of $100 will be charged for each RV-friendly symbol sign to cover the Department's costs for furnishing and installing the sign.

c) Placing and Maintaining Business Signs

1) Businesses, at their expense, must supply their own business signs to the Department within 60 calendar days after approval of their design. If the signs are not received by the Department within the 60 calendar day time period, the space will be declared available. Only the Department will place, or cause to be placed, the business signs on the specific service panels and trailblazer assemblies. When a business sign is so deteriorated, damaged, or vandalized that it needs replacement, the Department will notify its owner to fabricate a new sign. There will be no charge for this replacement of the business sign.

2) Businesses will be required to certify on the application that they meet the

established criteria. When the Department receives a complaint that a business may not comply, the suspected business will be contacted by the Department to determine if it meets the established criteria. If it is determined the business establishment fails to qualify, the business must change its operation within 30 calendar days after notification by the Department so as to comply or its business logos will be removed.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Section 542.APPENDIX B District Offices and Counties

District 1	Bureau of Traffic 201 West Center Court Schaumburg IL 60196-1096 847/705-4411	Cook, DuPage, Kane, Lake, McHenry and Will
District 2	Bureau of Operations 819 Depot Avenue Dixon IL 61021-3500 815-284-5395	Boone, Carroll, Henry, JoDaviess, Lee, Ogle, Rock Island, Stephenson, Winnebago and Whiteside
District 3	Bureau of Operations 700 East Norris Drive Ottawa IL 61350 815-434-8417	Bureau, DeKalb, Ford Grundy, Iroquois, Kankakee, Kendall, LaSalle and Livingston
District 4	Bureau of Operations 401 Main Peoria IL 61602 309/671-4460	Fulton, Henderson, Knox, Marshall, McDonough, Mercer, Peoria, Putnam, Stark, Tazewell, Warren and Woodford
District 5	Bureau of Operations 13473 IL Hwy. 133 P.O. Box 610 Paris IL 61944 217/466-7234	Champaign, DeWitt, Douglas, Edgar, McLean, Piatt and Vermilion
District 6	Bureau of Operations 126 East Ash Springfield IL 62704-4792 217/782-7314	Adams, Brown, Cass, Christian, Hancock, Logan, Macoupin, Mason, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler and Scott
District 7	Bureau of Operations 400 West Wabash Effingham IL 62401	Clark, Clay, Coles, Crawford, Cumberland, Edwards, Effingham, Fayette, Jasper,

	217/342-8261	Lawrence, Macon, Moultrie, Richland, ~~and~~ Shelby, Wabash and Wayne
District 8	Bureau of Operations 1102 EastPort Plaza Collinsville IL 62234 618/346-3250	Bond, Calhoun, Clinton, Greene, Jersey, Madison, Marion, Monroe, Randolph, St.Clair and Washington
District 9	Bureau of Operations State Transportation Building 2801 W. Murphysboro P.O. Box 100 Carbondale IL 62903 618/351-5240	Alexander, ~~Edwards,~~ Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, ~~Wabash, Wayne,~~ White and Williamson

(Source: Amended at 32 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Roadside Memorials

2) Code Citation: 92 Ill. Adm. Code 549

3)

Section Numbers:	Proposed Action:
549.100	New
549.200	New
549.300	New
549.400	New
549.500	New
549.APPENDIX A	New

4) Statutory Authority: Implementing and authorized by Section 4-105 of the Illinois Highway Code [605 ILCS 5/4-105] (See P.A. 095-0398, effective January 1, 2008.)

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking provides for the placement of roadside markers to commemorate the deaths of persons killed in crashes involving impaired drivers. The purpose of the program is to raise public awareness of impaired driving by emphasizing the dangers while affording families an opportunity to remember the victims. The authorizing legislation provides that the Department may place markers with the message, "Please Don't Drink and Drive", along with a plaque bearing the name of the victim and the date of the crash, at the location of the crash or at an alternate location. Both the legislation and the rule provide that the victims' families are responsible for the costs of the markers and plaques.

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 proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: The law allows, but does not require, local agencies to have similar programs on streets and highways under their respective jurisdictions.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

Mr. Joseph S. Hill, Chief, Bureau of Operations
Illinois Department of Transportation
Division of Highways
2300 South Dirksen Parkway, Room 009
Springfield, Illinois 62764

217/782-7231

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will have no effect on small businesses.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 549
ROADSIDE MEMORIALS

Section
549.100 Introduction
549.200 Definitions
549.300 Criteria for DUI Memorial Markers and Commemorative Plaques
549.400 Design of DUI Memorial Markers and Commemorative Plaques
549.500 Application, Fees and Other Regulations
549.APPENDIX A District Offices and Counties

AUTHORITY: Implementing and authorized by Section 25 of the Roadside Memorial Act [605 ILCS 125/25].

SOURCE: Adopted at 32 Ill. Reg. _____, effective _____.

Section 549.100 Introduction

a) This Part has been developed in accordance with the Roadside Memorial Act [605 ILCS 125] to regulate the use, by the Illinois Department of Transportation, of DUI memorial markers and commemorative plaques along streets and highways. This Part establishes standards and financial responsibility for a program of placing markers and plaques at locations within the respective jurisdictional areas. This program will become effective on January 1, 2008.

b) This program does not apply to freeways within the State of Illinois that are under the jurisdiction of the Department.

Section 549.200 Definitions

The following words or phrases, when used in this Part, shall have the meanings ascribed to them in this Section.

"Act" – the Roadside Memorial Act [605 ILCS 125].

"Commemorative Plaque" – a rectangular sign, placed beneath a DUI memorial marker, displaying the name of a victim who died as a proximate result of a crash caused by a driver under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination of these substances, along with the date of the crash.

"Department" – the Illinois Department of Transportation, with central offices at 2300 South Dirksen Parkway, Springfield, Illinois 62764.

"DUI Memorial Marker" – a sign *on a highway in the State of Illinois commemorating one or more persons who died as a proximate result of a crash caused by a driver under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination* of these substances and displaying the words "Please Don't Drink and Drive". (Section 10 of the Act)

"Entrance Ramp" – a lane entering the main traveled way of a freeway providing access between the freeway and the crossroad at an interchange.

"Freeway" – a divided highway for through traffic, other than one under the jurisdiction of the Illinois State Toll Highway Authority, with full control of access and grade separations at all crossroads.

"Interchange" – a system of interconnecting ramps providing for the movement of traffic between two roadways on different levels

"Qualified Relative" – an immediate relative of the deceased, by marriage, blood or adoption, such as his or her spouse, son, daughter, mother, father, sister or brother; a stepmother, stepfather, stepbrother or stepsister of the deceased; or a person with whom the deceased was in a domestic partnership or civil union as recognized by a State or local law or ordinance. (Section 10 of the Act)

Section 549.300 Criteria for DUI Memorial Markers and Commemorative Plaques

a) Only a qualified relative of a deceased victim may request a DUI memorial marker of the Department. (See Section 15(a) of the Act.)

b) The Department shall deny the request if any qualified relative of any decedent involved in the crash objects in writing to the placement of the DUI memorial marker. (See Section 15(c) of the Act.)

c) The Department *shall deny the request or, if a DUI memorial marker has already been installed, may remove the marker, if the qualified relative* requesting a DUI memorial marker *has provided false or misleading information in the application*. (Section 15(d) of the Act)

d) *The qualified relative shall agree not to place or encourage the placement of flowers, pictures or other items at the crash site.* (Section 15(e) of the Act)

e) The Department shall not erect a DUI memorial marker *for a deceased driver involved in a fatal crash who is shown by toxicology reports to have been in violation of State DUI law, unless the qualified relative of any other victim or victims killed in the crash consents in writing to the erection of the memorial.* (Section 15(f) of the Act)

f) When requested and approved, DUI memorial markers may be installed for any crash occurring within a 5-year period preceding the request beginning with crashes occurring on or after January 1, 2003. (See Section 15(b) of the Act.)

g) DUI memorial markers shall not be installed on freeways except that they may be installed on ramps leading from other highways to freeways.

h) DUI memorial markers shall not be installed within the median of any divided highway.

Section 549.400 Design of DUI Memorial Markers and Commemorative Plaques

a) The DUI memorial marker shall be a standard size of 36 inches wide by 24 inches tall with the message "Please Don't Drink and Drive" in white lettering on a retroreflectorized blue background and shall bear the Illinois Department of Transportation Sign Standard Number I5-I106.

b) The DUI memorial marker may be supplemented by a commemorative plaque having a standard size of 36 inches wide by 18 inches tall mounted underneath with the message "IN MEMORY OF (Victim's Name)" and the date of the applicable crash in white lettering on a retroreflectorized blue background and shall bear the Illinois Department of Transportation Sign Standard Number I5-I106(a).

Section 549.500 Application, Fees and Other Regulations

a) Application

1) Application forms for the placement of DUI memorial markers and commemorative plaques will be available from the Department (see Appendix A for a listing of District addresses and phone numbers). If a qualifying relative wishes to participate in the program, he/she must complete an application form for each victim he/she wishes to commemorate and submit it to the Department at the address shown in Appendix A for the county in which the marker is desired.

2) When the Department determines from the initial application that the criteria listed in this Part are met, the application will be approved and a copy returned to the qualifying relative, along with instructions concerning payment of the fee and other appropriate information.

b) Fees

1) A one-time fee sufficient to offset the cost of the program will be charged for each DUI memorial marker and commemorative plaque installed by the Department. The fees, as of January 1, 2008, will be $150 for each DUI memorial marker and $50 for each commemorative plaque.

2) The Department will periodically adjust the fees to reflect the current cost of installing and maintaining the signing with adjustments subject to rulemaking.

3) Once the fee is paid for a DUI memorial marker or a commemorative plaque and the marker or plaque is installed, the Department will maintain the marker or plaque for the entire 2-year period provided in Section 549.500(c)(3) without any additional cost to the qualified relative. (See Section 20(f) of the Act.)

c) Placing and Maintaining Memorial Markers and Commemorative Plaques

1) The DUI memorial markers and commemorative plaques shall only be placed by the Department.

2) *A DUI memorial marker* and commemorative plaque *shall be maintained for at least 2 years from the date the last person was memorialized on the plaque.* (Section 20(c) of the Act)

3) The Department *has the right to install a marker at a location other than the location of the crash or to relocate a marker due to restricted room, property owner complaints, interference with essential traffic control devices, safety concerns, or other restrictions. In such cases,* the Department *may select an alternate location*. (Section 20(d) of the Act)

4) *A DUI memorial marker* and commemorative plaque *may memorialize more than one victim who died as a result of the same crash. If one or more additional, unrelated DUI deaths subsequently occur in close proximity to an existing DUI memorial marker,* the Department *may use the same marker to memorialize the subsequent death or deaths by adding the names of the additional persons*. (Section 20(b) of the Act)

5) *The Department shall secure the consent of any municipality before placing a DUI memorial marker within the corporate limits of the municipality.* (Section 20(e) of the Act)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

Section 549.APPENDIX A District Offices and Counties

District 1	Bureau of Traffic 201 West Center Court Schaumburg IL 60196-1096 847/705-4411	Cook, DuPage, Kane, Lake, McHenry and Will
District 2	Bureau of Operations 819 Depot Avenue Dixon IL 61021-3500 815/284-5395	Boone, Carroll, Henry, JoDaviess, Lee, Ogle, Rock Island, Stephenson, Whiteside and Winnebago
District 3	Bureau of Operations 700 East Norris Drive Ottawa IL 61350 815/434-8417	Bureau, DeKalb, Ford, Grundy, Iroquois, Kankakee, Kendall, LaSalle and Livingston
District 4	Bureau of Operations 401 Main Peoria IL 61602 309/671-4460	Fulton, Henderson, Knox, Marshall, McDonough, Mercer, Peoria, Putnam, Stark, Tazewell, Warren and Woodford
District 5	Bureau of Operations 13473 IL Hwy. 133 PO Box 610 Paris IL 61944 217/466-7234	Champaign, DeWitt, Douglas, Edgar, McLean, Piatt and Vermilion
District 6	Bureau of Operations 126 East Ash Springfield IL 62704-4792 217/782-7314	Adams, Brown, Cass, Christian, Hancock, Logan, Macoupin, Mason, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler and Scott
District 7	Bureau of Operations 400 West Wabash Effingham IL 62401 217/342-8261	Clark, Clay, Coles, Crawford, Cumberland, Edwards, Effingham, Fayette, Jasper, Lawrence, Macon, Moultrie, Richland, Shelby, Wabash and Wayne

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

District 8	Bureau of Operations 1102 EastPort Plaza Collinsville IL 62234 618/346-3250	Bond, Calhoun, Clinton, Greene, Jersey, Madison, Marion, Monroe, Randolph, St. Clair and Washington
District 9	Bureau of Operations State Transportation Building 2801 W. Murphysboro PO Box 100 Carbondale IL 62903 618/351-5240	Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, White and Williamson

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Early Intervention Program

2) Code Citation: 89 Ill. Adm. Code 500

3)

Section Numbers:	Adopted Action:
500.20	Amend
500.45	Amend
500.50	Amend
500.55	Amend
500.60	Amend
500.65	Amend
500.75	Amend
500.80	Amend
500.85	Amend
500.90	Amend
500.100	Amend
500.105	Amend
500.110	Amend
500.115	Amend
500.120	Amend
500.125	Amend
500.130	Amend
500.135	Amend
500.140	Amend
500.145	Amend
500.APPENDIX B	Repeal
500 APPENDIX C	Amend
500.APPENDIX D	Amend
500.APPENDIX E	Amend

4) Statutory Authority: Implementing and authorized by the Early Intervention Services System Act [325 ILCS 20] and Part C of the Individuals with Disabilities Education Act (IDEA) (20 USC 1400 et seq., as amended in 1997)

5) Effective date of Amendments: January 23, 2008

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

7) Does this rulemaking contain incorporations by reference? No

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

9) Notice of proposal published in the Illinois Register: August 10, 2007; 31 Ill. Reg. 11408

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

11) Differences between proposal and final version:

A) In Section 500.50 (b), "Burros Center for Testing, University of Nebraska-Lincoln, 21 Teachers College Hall, Lincoln NE 68588-0348 (2005, no later edition or amendments included)" was added after "Series".

B) In Section 500.60 (g)(1), changed "CEU" to "continuing education unit (CEU)".

C) In Section 500.60 (h)(1), deleted "vision" and capitalized "developmental", changed "Therapists" to "Therapists/Vision", capitalized "orientation", capitalized "Mobility Developmental Therapists", deleted "hearing", and changed "developmental therapists" to "Developmentl Therapists/Hearing".

D) In Appendix C, under Audiology, Aural, Rehabilitation/Other Related Services, deleted "Hearing" and reinstated "/Hearing".

E) In Appendix C, under Developmental Therapy, deleted "Hearing" and reinstated "/Hearing". Deleted "Vision" and reinstated "/Vision" in the 4th paragraph.

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

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

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

15) Summary and purpose of Rulemaking: The amendments to this rulemaking update credentialing and enrollment requirements for service providers of the Early Intervention Program. This rulemaking also adds a definition for Service Provider Agreement and brings procedural safeguards for families into compliance.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these Adopted Amendments shall be directed to:

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

217/785-9772

17) Does these amendments 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 Amendments begin on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER e: EARLY CHILDHOOD SERVICES

PART 500
EARLY INTERVENTION PROGRAM

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500.15 Incorporation by Reference
500.20 Definitions

SUBPART B: COMPONENTS OF THE STATEWIDE SYSTEM

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500.25 Public Awareness and Child Find
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DEPARTMENT OF HUMAN SERVICES

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SUBPART E: PROCEDURAL SAFEGUARDS/CLIENT RIGHTS

Section
500.135 Minimum Procedural Safeguards
500.140 Administrative Resolution of Complaints By Parents
500.145 Mediation
500.150 Confidentiality/Privacy
500.155 Right to Consent
500.160 Surrogate Parents
500.165 Written Prior Notice
500.170 State Complaint Procedure

500.APPENDIX A Sliding Fee Schedule
500.APPENDIX B Assessment Instruments (Repealed)
500.APPENDIX C Requirements for Professional and Associate Level Early Intervention (EI) Credentialing and Enrollment to Bill
500.APPENDIX D Use of Associate Level Providers
500.APPENDIX E Medical Conditions Resulting in High Probability of Developmental Delay (not an exclusive list)

AUTHORITY: Implementing and authorized by the Early Intervention Services System Act [325 ILCS 20] and Part C of the Individuals with Disabilities Education Act (IDEA) (20 USC 1400 et seq., as amended in 1997).

SOURCE: Adopted at 25 Ill. Reg. 8190, effective July 1, 2001; amended at 27 Ill. Reg. 2611, effective February 7, 2003; amended at 27 Ill. Reg. 13438, effective July 24, 2003; amended at 28 Ill. Reg. 8727, effective June 1, 2004; amended at 29 Ill. Reg. 2254, effective January 31, 2005; amended at 32 Ill. Reg. 2161, effective January 23, 2008.

SUBPART A: GENERAL PROVISIONS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 500.20 Definitions

"Act" means the Early Intervention Services System Act [325 ILCS 20].

"Child find" means an activity that identifies potentially eligible infants and toddlers.

"Council" or "IICEI" means the Illinois Interagency Council on Early Intervention established under Section 4 of the Early Intervention Services System Act.

"Credential" means an official documentation from the Department's credentialing office that an individual has met pertinent licensing, degree, and certification requirements as set forth in Appendix C, as well as the applicable education, experience, continuing professional education, and ongoing professional development requirements as set forth in Section 500.60.

"Day", for purposes of this Part, means calendar day.

"Department" means the Illinois Department of Human Services.

"Early intervention services" or "EI services" means services that:

are designed to meet the developmental needs of each child eligible under the Act and the needs of his or her family;

are related to enhancing the child's development;

are selected in collaboration with the child's family;

are provided under public supervision;

are provided at no cost except where a schedule of sliding scale fees or other system of payments by families has been adopted in accordance with State and federal law;

are designed to meet an infant's or toddler's developmental needs in any of the following areas:

cognitive development;

physical development, including vision and hearing;

language, speech and communication development;

social-emotional development; or

adaptive self-help skills development;

meet the standards of this Part, including the requirements of the Act;

include one or more of the services set forth in Section 500.55;

are provided by qualified personnel, as set forth in Section 500.60;

are provided in conformity with an Individualized Family Service Plan;

are provided throughout the year; and

are provided to the maximum extent appropriate in natural environments, including the home and community settings that are natural or normal for the child's age peers who have no disability.

"Early Intervention Services System" or "System" means the system of service delivery described in this Part that implements Part C of IDEA in Illinois and the Illinois Early Intervention Services System Act.

"Eligible children" or "eligible child" means infants and toddlers under 36 months of age with any of the following conditions:

Developmental delay;

A physical or mental condition that typically results in developmental delay; or

At risk of having substantial developmental delays, according to informed clinical judgment.

"Developmental delay" means a Department determined eligible level of

delay (30% and above) in one or more of the following areas of childhood development: cognitive; physical, including vision and hearing; language, speech and communication; social-emotional; or adaptive self-help skills, as measured by Department approved diagnostic instruments and standard procedures or as confirmed through informed clinical judgment of qualified staff based upon multidisciplinary evaluation and assessment if the child is unable to be appropriately and accurately tested by the standardized measures available.

"Physical or mental condition that typically results in developmental delay" means a medical diagnosis (see Appendix E) approved by the Department as an eligible condition or confirmed by a qualified family physician, pediatrician or pediatric sub-specialist as being a condition with a relatively well known expectancy for developmental outcomes within varying ranges of developmental disabilities. Pediatric subspecialists included are those such as pediatric neurologists, geneticists, pediatric orthopedic surgeons and pediatricians with special interest in disabilities.

"At risk of substantial developmental delay, according to informed clinical judgment" means that there is consensus of qualified staff based upon multidisciplinary evaluation and assessment that development of a Department determined eligible level of delay is probable if early intervention services are not provided, because a child is experiencing either:

a parent who has been medically diagnosed as having a severe disorder as set forth under axis I and axis II of the Diagnostic and Statistical Manual IV (DSM IV) (1994; American Psychiatric Association, 1400 K Street, NW, Washington, D.C. 20005) or a developmental disability; or

three or more of the following risk factors:

current alcohol or substance abuse by the primary caregiver;

primary caregiver who is currently less than 15 years of age;

current homelessness of the child;

chronic illness of the primary caregiver;

alcohol or substance abuse by the mother during pregnancy with the child;

primary caregiver with a level of education equal to or less than the 10th grade, unless that level is appropriate to the primary caregiver's age;

an indicated case of abuse or neglect regarding the child and the child has not been removed from the abuse or neglect circumstances.

Services for children determined to be "at risk" shall not be funded under Federal Part C funding, nor subject to its requirements, unless Part C funding for "at risk" services is requested by the lead agency.

"Enroll" means to enter into a~~an~~ Service Provider Agreement~~agreement~~ that establishes duties, expectations and relationships between the Department and the individual or agency provider that provides early intervention services to eligible children and their families. A provider must be enrolled to bill and receive payment for services from the Early Intervention Program.

"Evaluation/Assessment" or "Evaluation" means the initial and ongoing procedures used by appropriate qualified staff to determine:

a child's eligibility under this Part in accordance with the definition of "eligible infants and toddlers";

the child's status in each of the developmental areas set forth in "early intervention services";

the child's unique strengths and needs;

the services appropriate to meet those needs;

the resources, priorities, and concerns of the family; and

the supports and services necessary to enhance the family's capacity to meet the developmental needs of its infant or toddler with a disability.

"HIPAA" means the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.) and the regulations promulgated thereunder at 45 CFR 160, 162 and 164 (Transaction, Privacy and Security).

"Individualized Family Service Plan" or "Plan" or "IFSP" means a written plan for providing early intervention services to an eligible child and the child's family, as set forth in Subpart C.

"Lead agency" means the State agency, as designated by the Governor and the Act, responsible for administering the Act and this Part in accordance with federal laws and rules. The Illinois Department of Human Services has been so designated.

"Local interagency agreement" means an agreement entered into by local community and State and regional agencies receiving early intervention funds directly from the State and made in accordance with State interagency agreements providing for the delivery of early intervention services within a local community area.

"Local interagency council" or "LIC" means a local advisory body established for each designated geographic intake region as set forth in Section 6 of the Early Intervention Services System Act.

"Local service area" means a local interagency council region.

"Multidisciplinary team", sometimes referred to as the IFSP team, means a group of people concerned with the developmental needs of the child, including the child's parent/guardian and service coordinator and members from pertinent disciplines involved in the provision of integrated and coordinated services, including evaluation and assessment activities, who determine appropriate EI services by consensus as set forth in this Part.

"Natural environment" means home and community settings that are natural or normal for the child's age peers who have no disability.

"Parents" means a parent, a guardian, a person acting as a parent of a child or a surrogate parent appointed as set forth in this Part.

"Part B" means Part B of the Individuals with Disabilities Education Act (20 USC 1400 et seq.) (IDEA) governing "Assistance for Education of All Children with Disabilities".

"Part C" means Part C of IDEA (20 USC 1400 et seq.) governing "Infants and Toddlers with Disabilities".

"Protected health information" means the health information governed by the HIPAA Privacy and Security regulations at 45 CFR 164.501.

"Regional intake entity" means the Department's designated entity responsible for implementation of the Early Intervention Services System within its designated geographic area as set forth in Section 500.45.

"Service Provider Agreement" means the binding written agreement that establishes the duties, expectations and relationship between the Department and the provider of service pursuant to the Illinois Early Intervention Services System Act [325 ILCS 20], Part C of the Individuals with Disabilities Education Act (IDEA) (20 USC 1431 et seq.), the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and EI administrative rules.

"Transition" is the process of transferring eligible children receiving early intervention services under this Part out of such services to Part B services or to other appropriate developmental or educational services.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

SUBPART B: COMPONENTS OF THE STATEWIDE SYSTEM

Section 500.45 Regional Intake Entities

The Department will assure the designation of regional intake points as necessary to accomplish consistent, System intake and service coordination throughout the State. The regional entity shall be the contracted entity responsible for implementation of the Early Intervention Services System within its designated geographic area. The regional entity shall:

a) Participate in public awareness and child find activities by disseminating information to primary referral sources and working with local interagency councils.

b) Provide adequate accessible and secure space/facilities to store permanent early intervention records and to house staff.

c) Select, train, and supervise qualified staff to carry out the following tasks within the System specified time frames:

1) Receive referrals.

2) Develop, maintain and process the permanent early intervention case record in accordance with policies set forth by the Department.

3) Provide information about the Early Intervention Services System, including rights and procedural safeguards and available advocacy services, to families and initiate intake with parental consent.

4) Coordinate EI and non-EI services for enrolled families.

5) Ensure that eligibility is determined according to the Department's early intervention eligibility criteria.

6) Comply with family fee policies and procedures as set by the Department.

7) Develop the initial IFSP with the family, within 45 days after referral, consistent with requirements in this Part and federal regulations.

8) Monitor that the integrity of the IFSP process is maintained and completed through accurate, timely and complete implementation of the services as mutually determined and agreed to by the IFSP Team, and consented to in writing by the child's parent/guardian.

9) Monitor that the Part C funds are the "payor of last resort" to the extent allowed by law. This includes assistance in accessing resource supports, including but not limited to Medicaid (Title XIX), the State Child Health Insurance Program (Title XXI), the Division of Specialized Care for Children (Title V) and private insurance.

10) Assist the family in monitoring IFSP implementation and obtain updated documentation from service providers listed on the IFSP in accordance with this Part, communicating regularly with the family using a variety of face-to-face, telephone, written correspondence, and other methods, including team meetings, to ensure that the family is well informed and an active participant in the implementation of the IFSP.

11) Assure that IFSPs are reviewed at least every six months and updated annually.

12) Assure that transition planning, case transfer and case closure occur consistent with the requirements of this Part.

13) Be knowledgeable of and comply with all applicable federal and State laws, guidelines, procedures, rules, regulations, and executive orders applicable to its activities, including, but not limited to:

A) The Individuals with Disabilities Education Act (20 USC 1400 et seq.). The United States Department of Education regulations for the early intervention program for Infants and Toddlers with Disabilities (34 CFR 303) and the Illinois Early Intervention Services System Act.

B) The federal Family Education Rights and Privacy Act (FERPA) (20 USC 1232g, 1232h) and the United States Department of Education implementing regulations (34 CFR 99); the Illinois School Student Records Act [105 ILCS 10].

C) The Americans with Disabilities Act (42 USC 12131-12134).

D) The Health Insurance Portability and Accountability Act (42 USC 1320 et seq., and the regulations promulgated thereunder at 45 CFR 160, 162 and 164 regarding transactions, privacy and security).

d) Maintain a directory of non-EI financial resources and support services for use with families.

e) Assist families in accessing non-EI financial resources and support services by making appropriate referrals while the child is enrolled with the Early Intervention Services System and at transition. Children found ineligible should be offered referrals for non-EI community resources prior to case closure.

f) Maintain administrative and programmatic contact with all EI service providers in the service area.

g) Participate in routine monitoring and technical assistance activities as required by the Department, including on-site monitoring, data collection and reporting obligations, record reviews, financial audits, complaint investigations, and consumer satisfaction surveys.

h) Enroll as an~~a~~ "All Kids~~KidCare~~ agent" in order to complete the All Kids~~KidCare~~ application as authorized under Section 22 of the Children's Health Insurance Program Act.

i) Participate in a process to measure family outcomes.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.50 Eligibility

a) An Illinois child under the age of 36 months of age and his or her family are eligible for services set forth in this Part if the child:

1) is experiencing a Department determined eligible level of developmental delay; or

2) is experiencing a medically diagnosed physical or mental condition that typically results in developmental delay; or

3) is, according to informed clinical judgment of qualified staff based upon a multidisciplinary evaluation and assessment, at risk of substantial developmental delay.

b) Eligibility must be determined by consensus of qualified staff based upon multidisciplinary evaluation and assessment, using one or more of the following:

1) One or more standardized evaluations or criterion referenced measures approved by the Department. A provider may request Department approval of a developmental test by submitting, in writing, documentation that the test meets the following criteria: is listed in the Mental Measurement Yearbook Series (Burros Center for Testing, University of Nebraska-Lincoln, 21 Teachers College Hall, Lincoln NE 68588-0348 (2005, no later editions or amendments included)); is nationally distributed; is formally validated; is age appropriate; and is individually administered. The Mental Measurement Yearbook Series can be found at the Early Childhood Intervention Clearinghouse, many local libraries and via the Internet.~~(See Appendix B.)~~ If a child is unable to be appropriately and accurately tested by the standardized measures available, informed clinical judgment of the qualified staff based upon multidisciplinary evaluation and assessment may be used to document the level of delay. Activities to determine clinical judgment shall include observation and parent report and shall be described in the written report documenting the informed clinical judgment of qualified staff that the child is experiencing delay at a level determined by the Department to be eligible;

2) Specific medical diagnosis as determined by the Department. If a child exhibits a medical condition not approved by the Department as being an eligible condition, written verification by a qualified pediatrician or pediatric sub-specialist (pediatric neurologist, geneticist, pediatric orthopedic surgeon, pediatrician with special interest in disabilities) that the child's medical condition typically results in substantial developmental delay within the varying ranges of developmental disabilities may be used; or

3) Written verification of the consensus that, based on informed clinical judgment, development of substantial developmental delay is probable if early intervention services are not provided to the child who is experiencing risk factors as defined in Section 500.20. This report must also identify which risk factors the child is experiencing.

c) Eligibility shall be determined annually. Children will continue to be eligible if they:

1) have entered the program under any of the eligibility criteria in subsection (a) but no longer meet the current eligibility criteria under this Section;

and

2) either:

A) continue to have any measurable delay; or

B) have not attained a level of development in each area, including cognitive, physical (including vision and hearing), language, speech and communication, psycho-social, or self-help skills, that is at least at the mean of the child's age equivalent peers; and

3) have been determined by the multidisciplinary team to require the continuation of early intervention services in order to support continuing developmental progress, pursuant to the child's needs, and provided in an appropriate developmental manner. The type, frequency, and intensity of services will differ from the initial individualized family service plan because of the child's developmental progress, and may consist of only service coordination, evaluation and assessments.

d) If a family removes a child from services prior to reaching age three years and the child is later referred again, the child must meet eligibility criteria in effect at the time of the subsequent referral in order to be re-enrolled.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.55 Early Intervention Services/Devices

Early intervention services as defined in Section 500.20 may include the following as deemed necessary under the IFSP:

a) Assistive technology, including:

1) Assistive technology devices, meaning any item, piece of equipment or product system that is used to increase, maintain, or improve the functional capabilities of children with disabilities. Devices must be approved prior to purchase by the Department. Prior approval will not exclude assistive technology devices as defined in this Part that are required in order to meet the child's EI needs. Devices that meet the medical, life sustaining or routine daily needs of the child do not fall

within the definition of assistive technology device.

2) Assistive technology services, meaning services that directly assist a child with a disability in selection, acquisition, or use of an assistive technology device.

b) Audiology, aural rehabilitation/other related services for the purposes of:

1) Identification of children with auditory impairment, using appropriate criteria and audiologic screening techniques;

2) Determination of the range, nature, and degree of hearing loss and communication functions by use of audiological evaluation procedures;

3) Referral for medical testing and other services necessary for the habilitation or rehabilitation of children with auditory impairment;

4) Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other related services;

5) Determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices;

6) Provision of services for prevention of hearing loss; and

7) Family training, education and support provided to assist the child's family in understanding the child's special needs as related to audiology, aural rehabilitation and other related services and to enhancing the child's development.

c) Clinical assessment, counseling and other therapeutic services for the purposes of:

1) Evaluation to determine a child's developmental status and need for early intervention services;

2) Administering psychological or developmental tests and assessment procedures to determine the need for psychological or other counseling services;

3) Interpreting evaluation results;

4) Obtaining, integrating and interpreting information about child behavior and child and family conditions related to learning, mental health, and development;

5) Planning and managing a program of psychological or other counseling services, including psychological or other counseling for children and parents, family counseling, consultation on child development, parent training, and education programs; ~~and~~

6) Family training, education and support provided to assist the child's family in understanding the child's needs as related to psychological or other counseling services and to enhancing the child's development; and~~.~~

7) Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.

d) Developmental therapy services for the purposes of:

1) Evaluation/assessment, IFSP development, provider to provider consultation and treatment planning that leads to achieving IFSP outcomes, special instruction activities defined in the IFSP that promote acquisition of skills in various developmental areas, including cognitive processes and social interaction, provision of information and support related to enhancing the child's skill development.

2) Family training, education and support provided to assist the child's family in understanding the child's special needs as related to developmental therapy services and to enhancing the child's development.

e) Family training and support that can include education provided to assist the family of an eligible child in understanding the needs of the child as related to the provider's specific discipline and to enhancing the child's development.

f) Health consultation by a licensed physician who has provided recent and/or ongoing medical treatment for the child with service providers who are identified

on a child's IFSP as members of the child's multidisciplinary team concerning the child's health care needs that impact the provision of early intervention services.

g) Medical services for diagnostic or evaluation purposes provided by a licensed physician to determine a child's developmental status and need for early intervention services.

h) Nursing services for the purposes of:

1) Evaluation to determine a child's developmental status and need for early intervention services;

2) Assessment to determine a child's health status and identify the need for medical referrals;

3) Provision of required nursing care during the time the child is receiving other early intervention services, such as:

A) administration of medications, treatments, and regimens prescribed by a licensed physician; and

B) clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services as required to allow the child to participate in other EI services;

4) Family training, education and support provided to assist the child's family in understanding the child's needs as related to nursing services and to enhancing the child's development. Nursing services do not include hospital or home health nursing care required due to surgical or medical intervention or medical health services such as immunizations and regular "well child" care that are routinely recommended for all children.

i) Nutrition services for the purposes of:

1) Conducting individual assessments in nutritional history and dietary intake, anthropometric, biochemical, and clinical variables, feeding skills and feeding problems, and food habits and food preferences;

2) Developing and monitoring appropriate plans to address the nutritional needs of the eligible child based upon individual assessment;

3) Making referrals to appropriate community resources to achieve plans; and

4) Family training, education and support provided to assist the child's family in understanding the child's needs as related to nutrition services and to enhancing the child's development.

j) Occupational therapy services to address the functional needs of a child related to adaptive development; adaptive behavior and play; and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings and include:

1) Evaluation/assessment and intervention;

2) Adaptation of the environment and selection, design and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills;

3) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability; and

4) Family training, education and support provided to assist the child's family in understanding the child's needs as related to occupational therapy services and to enhancing the child's development.

k) Physical therapy services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:

1) Evaluation/screening/assessment of infants and toddlers to identify movement dysfunction;

2) Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement

dysfunction and related functional problems;

3) Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

4) Family training, education and support provided to assist the child's family in understanding the child's needs as related to physical therapy services and to enhancing the child's development.

l) Service coordination carried out by a service coordinator to assist and enable a child eligible under Part C and the child's family to receive the rights, procedural safeguards, and services that are authorized to be provided through the State's early intervention program, including:

1) Providing comprehensive case management to coordinate EI and non-EI services provided for the child and family;

2) Contacting the child/family at a minimum of one time per month to coordinate and monitor the provision of needed evaluation/assessments and services;

3) Facilitating and participating in the development, review and updating of Individualized Family Service Plans;

4) Facilitating the development of a transition plan to preschool services;

5) Facilitating referrals for appropriate EI and non-EI services and supports;

6) Developing and maintaining the child's permanent and electronic EI record at the regional intake entity; and

7) Informing families of the availability of advocacy services.

m) Social services for the purposes of:

1) Evaluation to determine a child's developmental status and need for early intervention services;

2) Making home visits to assess a child's living conditions and patterns of parent-child interaction to determine the need for social work or other counseling services;

3) Preparing a social or emotional developmental evaluation of the child within the family context;

4) Providing individual and family group counseling with parents and other family members, and appropriate social skill building activities with the child and parents;

5) Working with those problems in the child's and family's living situation (home, community, and any center where early intervention services are provided) that affect the child's maximum utilization of early intervention services;

6) Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services; and

7) Family training, education and support provided to assist the child's family in understanding the child's needs as related to social work or other counseling services and to enhancing the child's development.

n) Speech-language therapy services for the purposes of:

1) Evaluation/assessment activities to identify communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders, and delays in those skills;

2) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills;

3) Provision of services for the habilitation, rehabilitation, or prevention of communicative or oropharyngeal disorders and delays in development of communication skills; and

4) Family training, education and support provided to assist the child's family in understanding the child's needs as related to speech therapy services and to enhancing the child's development.

o) Transportation services (e.g., loaded mileage for travel by taxi, service car~~common carrier~~ or private auto~~car~~) provided in accordance with the Department's EI transportation policies to enable an eligible child and the child's family to travel to and from the location where the child receives another early intervention service.

p) Vision services for the purposes of:

1) Evaluation/assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays and abilities;

2) Referral for medical or other professional services necessary for the habilitation and/or rehabilitation of visual functioning disorders;

3) Communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities;

4) Orientation/mobility and other vision services related to improvement of visual functioning, including orientation and mobility training for all environments, communication skills training, visual training, independent living skills training and additional training necessary to activate visual motor activities; and

5) Family training, education and support provided to assist the child's family in understanding the child's needs as related to vision services and to enhancing the child's development.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.60 Provider Qualifications/Credentialing and Enrollment

a) Credentialing and enrollment, as set forth in this Part, is only for the purpose of providing and being reimbursed for EI services as set forth in this Part. It is not a

license.

b) An individual shall meet the pertinent licensing, degree, education and/or certification requirements for the service to be provided, as set forth in Appendix C, as well as the requirements set forth in this Section, in order to qualify for and maintain a credential to provide EI services. Credentialed providers must also enroll in order to be reimbursed for services.

c) To be credentialed and maintain the credential the individual shall also:

1) not be delinquent in paying a child support order as specified in Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65];

2) not be in default of an educational loan in accordance with Section 3~~2~~ of the Education Loan Default Act [5 ILCS 385/3~~2~~];

3) not have served or completed a sentence for a conviction of any of the felonies set forth in 225 ILCS 46/25(a) and (b) within the preceding five years (see 30 ILCS 500/50-10);

4) not have been determined to be~~indicated as~~ a perpetrator of an indicated incident of child abuse or neglect in an investigation by Illinois under the Abused and Neglected Child Reporting Act [325 ILCS 5] or by another state under that state's laws for at least the previous five years;

5) be in compliance with pertinent laws, rules, and government directives regarding the delivery of services for which they seek credentialing.

d) Applicants for a credential shall consent to a background check as set forth in 89 Ill. Adm. Code 385.30(c) through the Illinois Department of Children and Family Services, consisting of review of CANTS/SACWIS, Illinois Sex Offender Registry and criminal history.

~~d) Education~~
~~As of July 1, 2007, to be credentialed and maintain the credential an individual must provide documentation of the completion of educational experiences, as approved by the Department, that include at least 2 semester college hours or the equivalent (30 clock hours or CEU credit hours) in each of the following early intervention core knowledge content areas:~~

~~1) The Development of Young Children: Typical and Atypical;~~

~~2) Working with Families of Young Children with Disabilities;~~

~~3) Intervention Strategies for Young Children with Special Needs; and~~

~~4) Assessment of Young Children with Special Needs.~~
~~Parent Liaisons are not required to provide this documentation.~~

e) Temporary Credential
An individual who is not currently credentialed and has submitted an application to the Department's credentialing office, including an acceptable plan for ongoing professional development as required in subsection (k~~j~~)(2), and has met the pertinent requirements provided in Appendix C, as well as documentation of completion of early intervention systems training as defined in subsection (f)~~the education requirements in subsection (d)~~ and other requirements in this Part, will be issued a temporary credential and may provide EI services.

f) Early Intervention Systems Training ~~During Temporary Credential~~

1) In order to qualify for a~~full~~ credential, ~~status~~ an individual must document the completion ~~of 18 hours~~ of early intervention systems training as required and provided by the Department.~~, within 6 months after issuance of the temporary credential.~~ Parent Liaisons and Service Coordinators must complete this training within 90 days after the receipt of the temporary credential for such service. This training shall include at least:

A) Practice and procedures of private insurance;

B) The role of the regional intake entities, service coordination, program eligibility determinations, family fees, All Kids~~Medicaid, KidCare~~, and the Division of Specialized Care for Children (DSCC) applications, referrals, and coordination with Early Intervention, and procedural safeguards;

C) Introduction to the Early Intervention Program, including provider enrollment and credentialing, overview of Early Intervention Program policies and regulations, and billing requirements; and

D) Evaluation and assessment of birth-to-three children, individualized family service plan development, monitoring and review, early intervention philosophy and best practices, and quality assurance.

~~Extensions of up to 6 months may be allowed upon request in writing setting forth the facts concerning noncompliance with this requirement. The Department's credentialing office will consider hardship and other extenuating circumstances and determine if an extension should be granted on an individual basis.~~

2) A temporary credential may be issued to~~In order to qualify for full credential status as~~ a Parent Liaison or Service Coordinator, who shall~~an individual must~~ document completion of training as required and approved by the Department, within 90 days after the receipt of the temporary credential for such service. This training shall include at least the early intervention systems training, set forth in subsections (f)(1)(A) through (D), as well as:

A) Use of the management information system;

B) Regional intake entity operating philosophies and procedures; and

C) Transition.

Extensions of up to 90 days may be granted upon written request setting forth facts concerning noncompliance with this requirement. The Department's credentialing office will consider extreme hardship and other extenuating circumstances and determine if an extension should be granted on an individual basis.

g) Education

1) Individuals who hold a credential on July 1, 2007, other than individuals who hold a professional license in the State of Illinois, as set forth in Appendix C, as part of the first subsequent credential renewal application process, must provide documentation of the completion of educational experiences, as approved by the Department, that include at least two semester college hours or the equivalent (30 clock hours or continuing

education unit (CEU) credit hours) in each of the following early intervention core knowledge content areas. Parent Liaisons are not required to provide this documentation.

A) The Development of Young Children: Typical and Atypical;

B) Working with Families of Young Children with Disabilities;

C) Intervention Strategies for Young Children with Special Needs; and

D) Assessment of Young Children with Special Needs.

2) To qualify for a temporary credential, developmental therapists must document completion of educational experiences, as approved by the Department, that include at least two semester college hours or the equivalent (30 clock hours or CEU credit hours) in each of the early intervention core knowledge content areas listed in subsection (g)(1). As of July 1, 2007, all other applicants for a temporary credential, other than individuals that hold a professional license in the State of Illinois, as set forth in Appendix C, shall document completion of these educational experiences within 18 months after issuance of a temporary credential. Extensions of up to six months may be allowed upon request in writing, received at least 30 days before the expiration of the credential, setting forth the facts concerning noncompliance with this requirement. The Department's credentialing office will consider hardship and other extenuating circumstances and determine if an extension should be granted on an individual basis.

h) Consultation~~Supervision~~ Requirement Either Prior to or During Temporary Credential

1) In order to qualify for full credential ~~status~~, an individual must complete and document consultation while providing 240 hours of ~~supervised professional experience providing~~ direct ~~EI~~ services, for which they are being credentialed, to children ages birth to three with special needs~~infants, toddlers~~ and their families, except that Developmental Therapists/Vision, Orientation and Mobility Developmental Therapists, and Developmental Therapists/Hearing need only document 120 hours.

~~audiologists or audiologists in supervised professional experience need only document 30 such hours.~~ Documentation must show that ~~the supervisor met with~~ the individual participated in consultation with an appropriately experienced individual of the same discipline/Early Intervention service group who has experience working with children ages birth to three with special needs and their families. The consultation shall be in compliance with the professional standards of the individual seeking the credential, as determined and documented by the consultant. ~~at least one hour per week and that the experience was evaluated by the clinical professional supervisor as satisfactory.~~

2) Individuals who do not meet the consultation requirement ~~without the supervised professional experience required~~ in subsection (h~~g~~)(1) shall complete and document ~~240 hours of~~ such ~~supervised~~ experience within 18~~6~~ months after issuance of their temporary credential. Extensions of up to six~~6~~ months may be granted upon written request, received at least 30 days before the expiration of the credential, setting forth the facts concerning noncompliance with this requirement. The Department's credentialing office will consider extreme hardship and other extenuating circumstances and determine if an extension should be granted on an individual basis.

i~~h~~) Full Credential

Once an individual with a temporary credential has documented satisfactory completion of the requirements in subsections (g~~f~~) and (h~~g~~), as well as the ongoing professional development requirement in subsection (k~~j~~)(2), he/she is eligible to be fully credentialed.

j~~i~~) Evaluation/Assessment Services

~~For developmental therapists, occupational therapists, physical therapists, and speech therapists and, as of September 1, 2003, Early Intervention Specialists in all credentialed disciplines, evaluation~~Evaluation/assessment services for the purpose of determining initial eligibility, participating in the development of an initial comprehensive IFSP, and adding new types of services to existing IFSPs must be provided by a provider with a credential for Evaluation/Assessment as set forth in Appendix C in addition to an Early Intervention Specialist credential in the discipline required by the service being evaluated.

k~~j~~) Renewal of Credential

Full credentials are valid for three years. 60 to 90 days ~~At least one month~~ before his/her credential expires, a provider shall submit a renewal application to the Department in a form required by the Department. To qualify for renewal, the provider must have met and provide documentation of the following continuing professional education and development activities, as well as documentation of maintenance of pertinent licensure/certification requirements and compliance with this Part. Failure to receive a renewal notice from the Department shall not excuse the submission of a renewal application for one's credential.

1) Continuing Professional Education
During the three years that the full credential is valid, a credentialed provider shall receive a total of 30 hours of continuing professional education as approved by the Department~~, with a minimum of 5 hours during each year of his/her credential~~. This training shall include two or more of the early intervention core knowledge content areas set forth in subsections (g~~d~~)(1)(A) through (D~~4~~). Extensions of up to three months may be granted upon written request, received at least 30 days before the expiration of the credential, setting forth the facts concerning noncompliance with this subsection (k~~i~~)(1). The Department's credentialing office will consider extreme hardship and other extenuating circumstances and determine if an extension should be granted on an individual basis. The extension shall not extend the time within which the subsequent year's training requirements must be received.

2) Ongoing Professional Development

A) A credentialed provider (including temporary) shall participate in a system of ongoing professional development that includes~~, at a minimum,~~ a once a month non-billable~~face-to-face~~ meeting held either face-to-face or over the telephone with either an individual specialist-level credentialed provider ~~of the same discipline,~~ or a group, of which at least one member~~at least one of whom~~ is a specialist-level credentialed provider ~~of the same discipline,~~ in order to facilitate best practices through case review. Each~~As of April 1, 2003, each~~ provider shall submit an ongoing professional development plan with his/her initial and renewal credential application in a format provided by the Department, and shall also report ongoing professional development activities when moving from temporary to a full credential status and upon credential

renewal ~~on an annual basis~~ to the Department's credentialing office or upon request of the Department or its designee in a format provided by the Department. Documentation of ongoing professional development must demonstrate that a credentialed provider participated in ongoing professional development meetings in at least 75 percent of the months in his/her temporary or full credential period.

B) Service Coordinators and Parent Liaisons employed by regional intake entities shall participate in ongoing professional development experience as defined and implemented through a contractual agreement between the Department and the regional intake entity, instead of the requirement of this subsection (k~~j~~)(2).

l~~k~~) Restoration of Lapsed Credential
A credential that has lapsed for one year or less may be restored upon application proving the receipt of 30~~10~~ hours of continuing professional education, as continuing professional education is defined in subsection (k~~j~~)(1), and documentation of ongoing professional development as defined in subsection (k)(2).~~during the lapse period.~~

m~~l~~) Enrollment
Credentialed providers (including temporary) must enroll with the Department in order to bill and receive payment for early intervention services. Enrollment requires the payee entity to enter~~entering~~ into a Service Provider Agreement~~an agreement~~ with the Department that establishes the duties, expectations, and relationships between the Department and the Individual Provider or the Provider Agency.~~provider.~~ Providers shall submit an enrollment application packet at the same time they submit an application for a credential. Providers credentialed as an "associate", as defined in Appendix C, are not required to enroll, but shall be supervised by a specialist who is credentialed and enrolled in the same discipline, as set forth in Appendix D. The payee entity will bill~~, and who bills~~ for the services provided by the associate level provider under the name of the associate's supervisor. The payee entity, supervisor and associate will comply with all~~his/her supervision and who receives~~ directives and policy and procedural changes. Failure to receive Department payments, directives and policy and procedural changes, due to failure to comply with this subsection, shall not excuse compliance with those directives and changes.

n~~m~~) Change of Name or Address
Credentialed providers shall notify the Department's credentialing office of any change of name or address within 30 days prior to billing under the new name and/or address, or 30 days after such change, whichever comes first. Correct information is required for a provider to receive payment for services.

o~~n~~) Providers shall also enroll with the Department of Healthcare and Family Services~~Public Aid~~ to become an All Kids~~a Medicaid~~ provider, simultaneously with EI enrollment.

p~~o~~) An individual applying for or renewing enrollment shall state whether he or she is also enrolled as a DSCC provider.

q~~p~~) Termination of Credential/Enrollment

1) Credentialing/enrollment, as set forth in this Section, is not a license. Rights of credential and enrollment are set forth in the Service Provider Agreement. In addition to the provisions of this subsection (q~~p~~), the Department may exercise any rights it has under the Service Provider Agreement to terminate the agreement.

2) The following shall result in immediate automatic termination of a provider's credential and enrollment:

A) Failure to comply with the requirements of subsection (g~~f~~) and/or (h~~g~~) within the time period or within a Department-granted extension not exceeding the maximum extension time allowed.

B) Failure to successfully enroll in, exclusion from or termination from participation in All Kids~~Medicaid~~ and/or other programs of federal or State agencies.

C) Lapse of credential/enrollment for over 1 year without complying with subsection (l~~k~~) or failure to bill for services for more than 12 consecutive months.

D) Suspension or termination of the license and/or certification required for the service for which one is credentialed.

E) Failure to meet or maintain other credential and enrollment requirements set forth in this Section.

3) The following shall also result in termination of a provider's credential and enrollment:

A) Failure to comply with provisions of this Part, or with Early Intervention Service Provider Agreements, or with other laws and regulations relevant to the services for which there is a credential.

B) Unprofessional conduct.

C) Complaints the Department has determined are founded and significant.

D) Professional performance not consonant with recognized standard of care or adverse action of a professional society or other professional organization.

E) Lack of timely cooperation regarding the submission of and adequacy of reports, the development of appropriate goals and objectives and the development of multidisciplinary treatment plans.

F) Inappropriate billing practices.

4) The provider shall be notified of the date of termination and the reason, and shall help to transition clients to new providers. The provider may request an informal hearing, but the request shall not affect the termination date, which may proceed prior to the informal hearing. The request must be made within 30 days after the notice of the termination.

5) The provider may present relevant information, witnesses and evidence to the Secretary or his/her designee, in person or in writing. The Secretary or the designee will review the information presented and any supplemental investigation performed by the Department and issue a decision within 30 days after the hearing.

6) The decision of the Secretary or the designee shall be final.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.65 Monitoring

a) The Department, or its designee, will conduct comprehensive on-site monitoring visits at the regional intake entities. Other visits may occur at any time. Desk reviews may also be performed and families may be interviewed. The regional intake entities shall help the Department in obtaining representative family interviews.

b) The Department will prepare a written report of its findings that shall be sent to the regional intake entity. The report shall identify issues of non-compliance and may make recommendations about other areas of concern.

c) The regional intake entity shall send a corrective action plan to the Department within 30 days after receipt of the report, proposing timelines for addressing each compliance issue.

d) The Department will approve, within 14 days, an acceptable~~the~~ corrective action plan and timelines and may make follow-up visits as necessary to determine progress and compliance.

e) If the corrective action plan is not acceptable to the Department, it may within 14 days provide a reasonable plan and timelines, and make follow-up visits as necessary to determine progress and compliance.

f) In addition to any other rights the Department may have under contract with the regional intake entity the Department may suspend the contract, or withhold or suspend payments to the regional intake entity due to noncompliance with this Part and with Part C. Suspensions and holds may be lifted upon completion of, or demonstration of satisfactory progress towards, satisfactory corrective action. If an acceptable corrective action plan is not submitted in the required timeframe or the terms of the corrective action plan are not met by the provider, the Department may terminate the contract. This Section does not preclude the Department from exercising any rights it may have under its contract with the regional intake entity.

g) The Department may also visit and review records of individual providers within the area to assure compliance with applicable laws, regulations and Service

Provider Agreements. Visits may occur at any time. The Department may withhold or suspend payments to the provider for noncompliance with this Part or with Part C, as set forth in the Service Provider Agreement.

h) The monitoring team may also submit written reports to individual providers regarding provider non-compliance and issues of concern.

i) Providers receiving such reports shall submit a corrective action plan within 30 days proposing timelines for addressing issues of compliance. The Department shall follow subsections (d) and (e) if necessary regarding the provider.

j) In addition to other rights the Department may have, it may terminate its Service Provider Agreement with a provider due to non-compliance with this Part, and arrange for the provision of services to eligible children by other providers. This Section does not preclude the Department from exercising any rights it may have under the Service Provider Agreement.

k) The time frames set forth in this Section shall not preclude the Department from taking action immediately, if necessary, to protect the public interest, safety and welfare or to prevent ongoing violation of federal and State laws or threat of such violation. Nothing contained in this Section shall preclude the Department from taking action even if the provider is taking or has taken corrective action.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

SUBPART C: SERVICE DELIVERY REQUIREMENTS

Section 500.75 Eligibility Determination

a) The service coordinator shall, with informed parental consent:

1) Assist the family in developing an evaluation plan that lists testing activities needed to collect the information and the appropriate available enrolled providers chosen by the family to conduct the tests;

2) Arrange for the evaluation plan to be implemented; and

3) Obtain evaluation reports, including statements of evaluator findings related to the child's eligibility status and the child's functioning level,

unique strengths and needs in the developmental areas tested and the services appropriate to meet those needs in all of the following five developmental domains:

A) cognitive development;

B) physical development, including vision and hearing;

C) language, speech and communication development;

D) social-emotional development; and

E) adaptive self-help skills development.

b) Providers shall conduct authorized evaluations and provide reports to the service coordinator within 14 calendar days after the receipt of the request to perform an evaluation~~at least four business days after the evaluation but prior to initial IFSP development~~.

c) After sufficient information has been collected to determine eligibility status, the service coordinator shall ensure that eligibility is determined as set forth in Section 500.50. Existing records and evaluation reports may be used to assist with the evaluation/assessment process. Evaluations/assessments used in the eligibility determination and/or IFSP development process must have been completed no more than six months prior to the child's eligibility determination and/or IFSP development.

d) If the child is determined eligible, the service coordinator shall:

1) Inform the parent in writing that the child was determined eligible; and

2) Assure completion of further comprehensive evaluation/assessment activities with the family.

e) If the child is determined ineligible the service coordinator shall inform the parent in writing and shall close the case as set forth in Section 500.105. Written notice shall be consistent with the requirements of Section 500.165.

f) With informed parental consent, the service coordinator shall notify the referral

source in writing of the status of the referral.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.80 Individualized Family Service Plan Development

a) The service coordinator shall:

1) Review existing records to identify whether additional information is needed to determine the child's current health status and medical history and, if so, shall request the information upon receipt of informed parental consent.

2) Review existing records and evaluation reports to identify whether additional information is needed to determine the child's functioning levels, unique strengths and needs and the services appropriate to meet those needs in the five developmental domains (cognitive development; physical development, including vision and hearing; communication development; social-emotional development; and adaptive self-help skills) and, if not, shall arrange for additional evaluation/assessment activities using methods described in Section 500.75.

3) Assist the family in determining its resources, priorities and needs related to being able to enhance its child's development and the supports and services appropriate to meet those needs.

4) Assist the family initially, and annually thereafter or more often as required by change of circumstances, in determining its ability to participate in the cost of services that are subject to family fees. The inability of a family to participate in the cost of services shall not result in the denial of services to the child or the child's family.

5) At the point of early intervention intake, and again at any periodic review of eligibility thereafter or upon a change in family circumstances, collect information regarding any and all public and private insurance under which the child's services may be covered.

6) Explain to each family, orally and in writing, all of the following:

A) That the early intervention program will pay for all early intervention services set forth in the individualized family service plan that are not covered or paid under the family's public or private insurance plan or policy and not eligible for payment through any other third party payor.

B) That services will not be delayed due to any rules or restrictions under the family's insurance plan or policy.

C) That the family may request, with appropriate documentation supporting the request, a determination of an exemption from private insurance use under Section 13.25 of the Act.

D) That responsibility for co-payments or co-insurance under a family's private insurance plan or policy, but only to the extent that those payments plus the balance to be claimed do not exceed the current State rate for early intervention services, will be transferred to the lead agency's central billing office.

E) That families will be responsible for payments of family fees, which will be based on a sliding scale according to income, and that these fees are payable to the central billing office, and that if the family encounters a catastrophic circumstance, as defined under Section 500.130(g)(1), making it unable to pay the fees, the lead agency may, upon proof of inability to pay, waive the fees.

b) The Department shall not pay for services listed on the IFSP that the Department is not required to fund. Early intervention funding is the payor of last resort for IFSP services that the Department is required to fund. When an application or a review of eligibility for EI services is made, and at any eligibility redetermination, or upon a change in family circumstances, the family shall be asked if it is currently enrolled in Medicaid, All Kids~~KidCare~~, or the Title V program administered by the University of Illinois Division of Specialized Care for Children (DSCC).

1) If the family is enrolled in any of these programs, that information shall be put on the IFSP and entered into the computerized case management system, and shall require that the IFSP of a child who has been found eligible for services through DSCC state that the child is enrolled in that

program.

2) For those programs in which the family is not enrolled, a preliminary eligibility screen shall be conducted simultaneously for medical assistance ~~(Medicaid)~~ under Article V of the Illinois Public Aid Code; children's health insurance program ~~(KidCare)~~ benefits under the Children's Health Insurance Program Act; and Title V maternal and child health services provided through DSCC.

3) When a child is determined eligible for and enrolled in the EI program and has been found to at least meet the threshold income eligibility requirements for medical assistance under Article V of the Illinois Public Aid Code or benefits under the Children's Health Insurance Program Act~~Medicaid or KidCare,~~ complete an All Kids~~a KidCare/Medicaid~~ application with the family and forward it to the Illinois Department of Healthcare and Family Service's All Kids~~Public Aid's KidCare~~ Unit for a determination of eligibility.

c) Prior to development of the initial or annual Individualized Family Service Plan, the service coordinator shall:

1) Arrange for a meeting to be held, at a time and place convenient for the family, between the child's parent and other family members by parental request, the service coordinator, a person or persons directly involved in conducting the evaluations/assessments, potential service providers within the EI Service System as appropriate, and others, such as an advocate or person outside the family by parental request, to develop the Individualized Family Service Plan; and

2) Provide reasonable prior written notice to the family and other participants of this meeting.

d) At the meeting to develop the Individualized Family Service Plan, the service coordinator shall:

1) Coordinate and participate in the meeting.

2) Ensure that the meeting is conducted in the parent's native language or mode of communication, unless it is clearly not feasible to do so, or that

an interpreter is present to translate what is discussed.

3) Seek a consensus by the multidisciplinary team regarding child outcomes, functional goals and objectives and an integrated plan to meet the goals and objectives set forth in subsection (e).

4) If no consensus is reached, the service coordinator shall establish a Department approved service plan reviewed by Department designated experts, and shall provide the parents with prior written notice, pursuant to Section 500.165, of the Department's proposed service plan. The parents may seek mediation or an impartial administrative resolution regarding other requested services.

e) The Individualized Family Service Plan must:

1) Be developed by a multidisciplinary team, including the service coordinator and the parent as set forth in subsection (g).

2) Be based on a multidisciplinary assessment of the unique strengths and needs of the child and a family-directed assessment of resources, priorities and concerns of the family.

3) Include services necessary to provide appropriate developmental benefits for the identified needs.

4) Include supports and services necessary to enhance the family's capacity to meet the identified developmental needs.

5) State the natural environments in which services shall be appropriately provided and justification of why early intervention cannot be achieved satisfactorily in a natural environment if any services are to be provided elsewhere.

6) Include all components as required by the Department.

7) Provide a statement of the child's present developmental levels in the following areas, based on professionally acceptable objective criteria:

A) physical development, including vision and hearing;

B) cognitive development;

C) language, speech and communication development;

D) social or emotional development; and

E) adaptive self-help skills development.

8) Provide a statement of the family's resources, priorities and concerns related to enhancing the development of the child.

9) Provide a statement of the functional~~major~~ outcomes expected to be achieved for the child and family, and the criteria, procedures and timelines used to determine:

A) The degree to which progress toward achieving the outcomes is being made; and

B) Whether modifications or revisions of the outcomes or services are necessary.

10) A statement of the specific EI services to be provided, including:

A) The frequency and intensity for each service, meaning the number of times a service will be provided within a given period and the length of time the service will be provided during each session;

B) The method of delivering the services, meaning whether the service will be provided on a group or individual basis;

C) The location in which early intervention services will be provided, including whether the location would be considered a natural environment for the child and family, as described in subsection (e)(5); and

D) The projected beginning dates as soon as possible after development of the IFSP and the duration or ending dates of the services.

11) A statement of any other services, such as medical services, that the child needs but that are not required early intervention services. The statement should include the funding sources to be used in paying for those services or the steps that will be taken to secure those services through public or private sources. Routine medical services such as immunization or well child care do not need to be listed unless the child is not receiving those services and needs them.

12) The name of the service coordinator qualified to carry out all applicable responsibilities who will be responsible for implementation of the IFSP and coordination with other agencies and persons.

13) The steps to be taken to support the transition of the child to preschool services under Part B of IDEA to the extent that those services are considered appropriate or to other services that may be available, if appropriate. The steps include:

A) Discussions with and training of parents regarding future placements and other matters related to the child's transition at age three years;

B) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting; and

C) With informed parental consent, the transmission of information about the child to the local educational agency to ensure continuity of services, including evaluation information and copies of the IFSP.

14) State whether the family has private insurance coverage and, if the family has such coverage, attach a copy of the family's insurance identification card or otherwise include all of the following information:

A) The name, address, and telephone number of the insurance carrier.

B) The contract number and policy number of the insurance plan.

C) The name, address, and social security number of the primary insured.

D) The beginning date of the insurance benefit year.

f) During and as part of the IFSP development, and any changes to the IFSP ~~thereto~~, the multidisciplinary team shall consult Department designated experts, if any, to help determine appropriate services, and frequency and intensity of those services. Services must be justified by the multidisciplinary team in order to be included on the IFSP.

g) The contents of the IFSP shall be fully explained to the parents and informed written consent obtained prior to the provision of services. If the parents do not provide consent for a particular service, the EI services to which consent is obtained shall be provided.

h) The service coordinator shall determine if an Interim Individualized Family Service Plan, as set forth in sections 303.322(e)(2) and 303.345 of Part C of IDEA, is needed to initiate partial services for an eligible child while intake is being completed. An Interim IFSP may be needed if some early intervention services have been determined to be needed immediately for the child or family.

i) If an Interim IFSP is needed, the service coordinator shall:

1) Document the reasons an Interim IFSP is needed;

2) Assist the family in determining its ability to participate in the cost of services that are subject to family fees;

3) Complete the Department required IFSP form with the child's parent and with input from the multidisciplinary team members who recommended immediate services for the child and family;

4) Arrange for the Interim IFSP to be implemented;

5) Request service reports at the end of the Interim IFSP period and monitor provision of services; and

6) Maintain the child's permanent and electronic record with the regional

intake entity during the Interim IFSP period.

j) The implementation of an Interim IFSP shall not be used to extend the 45 day intake period. A fee may be assessed for services subject to family fee if the family is assessed as having the ability to participate in the costs of its child's services.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.85 Individualized Family Service Plan Implementation

a) Upon receiving informed written consent from the child's parent to implement the Individualized Family Service Plan, the service coordinator shall:

1) Arrange for implementation of the IFSP utilizing available enrolled providers. Every effort shall be made to refer families eligible for DSCC services to DSCC-enrolled providers;

2) Provide copies of the IFSP to each person the parent has consented to receive a copy, including each enrolled provider who is providing early intervention services to the child who is the subject of that plan;

3) Request direct service reports and monitor provision of services; and

4) Update and maintain the child's permanent and electronic record with the regional intake entity during the IFSP period.

b) The parent has the right to accept or decline any or all services without jeopardy to other services under this Part as set forth in Section 500.155(c). Refusals of services or referrals shall be documented in writing.

c) Providers shall render authorized services as indicated in the IFSP. They shall provide direct service reports to the service coordinator at least every six months and prior to each IFSP update/review or more often if the child's progress/lack of progress warrants.

d) The Illinois Early Intervention Services System is not responsible for funding early intervention services the parent seeks from providers not enrolled with the system unless an enrolled provider cannot be made available to the family. Services outside the System in such situations must be pre-approved by the

Department.

e) When a family's insurance coverage is through a managed care arrangement with a network of providers that includes one or more types of early intervention specialists who provide the services set forth in the family's IFSP, the family shall use those network providers, but only to the extent that:

1) the network provider is immediately available to receive the referral and to begin providing services to the child;

2) the network provider is enrolled as a provider in the Illinois early intervention system and fully credentialed under the current policy or rule of the Department;

3) the network provider can provide the services to the child in the manner required in the IFSP;

4) the family would not have to travel more than an additional 15 miles or an additional 30 minutes to the network provider than it would have to travel to a non-network provider who is available to provide the same service; and

5) the family's managed care plan does not allow for billing (even at a reduced rate or reduced percentage of the claim) for EI services provided by non-network providers.

f) If a child has been receiving services from a non-network provider and the regional intake entity determines, at the time of enrollment in the EI program or at any point thereafter, that the family is enrolled in a managed care plan, the family shall transfer to a network provider within 45 days after that determination if all the requirements of subsection (e) have been met~~ and the child is less than 26 months of age~~.

g) If an exemption to use of insurance is granted, it shall be noted on the IFSP, and the family and the providers serving the family shall be notified in writing of the exemption.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.90 Individualized Family Service Plan Updating

a) The IFSP shall be reviewed at least every six months, or more frequently if conditions warrant or upon reasonable request of the child's parent. The review may be carried out by a meeting with multidisciplinary team members.

1) The purpose of the review is to determine:

A) The degree to which progress toward achieving the outcomes is being made; and

B) Whether modification or revision of the outcomes, services or supports is necessary.

2) The service coordinator shall facilitate the review and implementation of any changes that are agreed upon by consensus of the multidisciplinary team and that are consistent with requirements of Section 500.80(f). Upon informed parental consent, the child's permanent and electronic record shall be updated.

b) Providers shall conduct authorized assessments using a Department approved test instrument ~~(see Appendix B)~~ as indicated on the IFSP as an ongoing process throughout the period of the child's eligibility and shall provide assessment reports to the service coordinator prior to IFSP updates/reviews. A provider may request Department approval of a developmental test by submitting, in writing, documentation that the test meets the following criteria: is listed in the Mental Measurement Yearbook Series; is nationally distributed; is formally validated; is age appropriate; and is individually administered. The Mental Measurement Yearbook Series can be found at the Early Childhood Intervention Clearinghouse, many local libraries and via the Internet.

c) At least once a year, the service coordinator shall arrange for an annual IFSP meeting to evaluate and revise the IFSP for the child and the child's family. The results of any current evaluations and ongoing evaluations of the child and family must be used in determining what services are needed and shall be provided. The service coordinator shall facilitate development of the annual IFSP by conducting the activities outlined in Section 500.80.

d) The service coordinator shall facilitate implementation of the annual IFSP by

conducting the activities outlined in Section 500.85.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.100 Transition to Part B or Other Appropriate Services at Age Three

Children receiving services under this Part shall receive a smooth and effective transition to appropriate preschool programs under Part B of IDEA or to other appropriate services for 3-5 year olds, by their third birthday. The service coordinator shall make all reasonable efforts to ensure the continuity and coordination of services.

a) Six months prior to the child's third birthday, the service coordinator shall begin to communicate with the child's local educational agency, appropriate community programs and the family about transition. The service coordinator shall:

~~1) Request parental consent to make transition referrals;~~

1~~2~~) Inform~~With informed parental consent, inform~~ the child's local educational agency that the child will shortly reach the age of eligibility for preschool services under Part B;

2~~3~~) Inform the parent in writing of educational rights of students with disabilities under Part B;

3~~4~~) Complete referral information as requested by the local educational agency (the school district).

b) The service coordinator shall convene a conference (upon the parent's approval), consisting of at least the family, the local educational agency and the service coordinator, to discuss services for the child. The conference shall also include a review of the child's program options for the period from the child's third birthday through the remainder of the school year. The meeting shall be held at least 90 days before the child is eligible for preschool services. If the child is not eligible for preschool services under Part B, the coordinator shall make reasonable efforts to convene a conference (upon the parent's approval) among the coordinator, the family and providers of other appropriate services.

c) The service coordinator shall convene an IFSP team meeting no more than 120 days prior to the child's third birthday, if an annual IFSP meeting is not otherwise

due, to discuss and document progress toward child outcomes and functional goals. If the IFSP team is able to participate in the transition conference described in Section 500.100(b) and progress measures can be measured at that time, it is not necessary to convene a separate IFSP team meeting.

d~~c~~) The service coordinator shall establish a written transition plan based on the conferences and communications described in subsections (a) and (b). The transition plan shall provide for discussion with and training of the family, as well as for the transition of the child.

e~~d~~) This plan will document all referrals to other services and all refusals of services by the parents.

f~~e~~) The local educational agency has an obligation under the law to participate in transition planning conferences.

g~~f~~) On the child's third birthday, the service coordinator shall close the case pursuant to Section 500.105.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.105 Case Closure

a) When a child exits early intervention services other than at transition to Part B or other appropriate services, as described in Section 500.100, the service coordinator shall convene an IFSP team meeting no more than 120 days prior to the child's exit, if an annual IFSP meeting is not otherwise due, to discuss and document progress toward child outcomes and functional goals.

b~~a~~) When a child exits early intervention services, the service coordinator shall update and close the child's permanent and electronic record with the regional intake entity.

c~~b~~) If an eligible child moves to another state:

1) The service coordinator and regional intake entity shall:

A) With consent of the parent, refer the child to the Early Intervention program in the new state and transfer a copy of the child's

permanent record to the new state;

B) Update and close the child's permanent and electronic record with the Illinois regional intake entity; and

C) Maintain the child's original permanent record as a closed file.

2) The Illinois Early Intervention Services System is not responsible for funding services to a child and family who no longer reside in Illinois.

d~~e~~) The regional intake entity and providers shall store closed records as set forth in Section 500.110.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.110 Recordkeeping

a) All service providers, service coordinators, and regional intake entities shall collect, compile and maintain appropriate records as required in this Part and as required by pertinent professional standards regarding services provided under this Part.

b) The early intervention record shall contain at least:

1) Identifying information, including name, All Kids~~Medicaid~~ recipient identification number, address and telephone number, sex, date of birth, primary language or method of communication, emergency contact or parent or parent substitute, date of initial contact and initiation of early intervention services, third party coverage, and source of referral;

2) Documentation of appropriate consents for early intervention services and releases of information;

3) Evaluation reports;

4) A current and any past IFSP, progress notes and reviews, and documentation of the relationship of the services to the IFSP goals and child and family progress;

5) Documentation of known child and family movement (referral/transfer) during any active service period to or from the provider's programs or to or from other providers;

6) Documentation of any refusal of services and/or referrals;

7) Direct service reports to support each early intervention service rendered;

8) Periodic reviews, minimally at six month intervals, describing the child's overall progress; and

9) If closed, a case closure summary documenting the outcome of interventions and, as necessary, the linkages for continued services.

c) Service providers, service coordinators and regional intake entities shall permit access to records by the Department as the lead agency, by the federal Office of Special Education Programs or its designees, and by its regional intake entity. Each shall obtain consent from clients, upon initiation of services, as may be necessary, to allow the release of records to the State and federal entities for the purpose of providing services, paying for services, and monitoring the provision of services.

d) The compilation, maintenance, storage of and access to records shall be governed by written policies and procedures that comply with the confidentiality provisions of Sections 500.150 and 500.155.

e) Facilities for the handling, processing and storage of records, whether hard copy, magnetic tapes, computer files, or other automated systems, shall be secured from unauthorized access, theft, loss, or fire or other natural occurrences.

f) All entries to records shall be current, legible and dated and the author shall be designated. If hard copy, the author shall sign the entry.

g) The regional intake entity is responsible for maintaining a complete early intervention record as set forth in subsection (b) for each enrolled child in the intake region.

h) Each service provider is required to keep documentation adequately supporting early intervention services provided.

i) All records described in this Section shall be maintained for at least six~~5~~ years from the child's discharge from early intervention services, or until any outstanding audit reviews or exceptions are closed to the satisfaction of the Department, or until any active or pending legal action, hearing request, complaint or other administrative or legal proceedings regarding them are resolved, whichever comes later. Destruction of records shall be consistent with pertinent laws.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.115 Service Provider Requirements

Service providers shall:

a) Not bill families for authorized early intervention services.

b) Participate in evaluation/assessment activities and the development, review and revision of IFSPs in a timely and comprehensive manner, and provide early intervention services in a family centered, ethical and culturally competent manner. Family members are to be an integral part of service planning, the child's participation in early intervention services, and the outcomes identified in the IFSP.

c) Provide accurate services as set forth in the IFSP in a timely manner.

d) Contact the service coordinator to request multidisciplinary team approval for proposed changes in the delivery of services to eligible children and to request parental consent prior to implementing any changes to services listed on the IFSP.

e) Agree that they shall not bill or receive reimbursement from the Department's centralized billing system for services in excess of what is authorized in the IFSP.

f) Agree not to terminate services for an eligible child without written notification to the child's service coordinator at least 30 days prior to the anticipated date of service termination.

g) Meet and maintain all applicable standards and regulations for individual and program licensure, certification and credentialing. Comply with all applicable

State and federal laws and regulations for physical facilities in which services are made available.

h) Provide evaluation reports and direct service reports to the service coordinator as required by this Part and as necessary to the provision of EI services consistent with federal and State requirements.

i) Submit invoice of charges for billable services following service delivery, according to Department billing requirements.

j) Unless an exemption is granted to a family, bill private insurance and/or any and all other third party payors before submitting invoices for EI reimbursement.

1) Bill the child's insurance carrier for each unit of EI service for which coverage may be available.

2) When the service is not exempted, providers who receive a denial of payment on the basis that the service is not covered under any circumstance under the plan are not required to bill that carrier for that service again until the following insurance benefit year. That explanation of benefits denying the claim, once submitted to the central billing office, shall be sufficient to meet the requirements of this subsection (j)(2) as to subsequent services billed under the same billing code provided to that child during that insurance benefit year.

3) Any time limit on a provider's filing of a claim for payment with the central billing office that is imposed through a policy, procedure, or rule of the Department shall be suspended until the provider receives an explanation of benefits or other final determination of the claim it files with the child's insurance carrier.

4) In all instances when an insurance carrier has been billed for EI services, whether paid in full, paid in part, or denied by the carrier, the provider must provide the central billing office, within 90 days after receipt, a copy of the explanation of benefits form and other required information.

5) When the insurance carrier has denied the claim or paid an amount for the EI service billed that is less than the current State rate for EI services, the provider shall submit the explanation of benefits with a claim for payment,

and the Department shall pay the provider the difference between the sum actually paid by the insurance carrier for each unit of service provided under the IFSP and the current State rate for EI services.

6) The State shall also pay the family's co-payment or co-insurance under its plan, but only to the extent that those payments plus the balance of the claim do not exceed the current State rate for EI services.

7) The provider may under no circumstances bill the family for the difference between its charge for services and that paid by the insurance carrier or by the State.

k) Allow the Department to recoup money improperly submitted to provider by:

1) offset from future reimbursements, or

2) submitting repayment in full or in installments negotiated with the Department.

l) Participate in routine monitoring and supervision activities as set forth by the Department, including self-assessment, on-site monitoring, data collection and reporting obligations, record reviews, financial audits, complaint investigation, and consumer satisfaction surveys.

m) Comply with any and all federal and State statutes and regulations, policies, guidelines, directives and procedures, including but not limited to those listed in Section 500.45(c)(13), and others that are applicable to the services being provided.

n) Provide services and communications to clients in a language or mode of communication understood by the client. If necessary, interpreters may be used.

o) Be knowledgeable about and inform families of their rights and procedural safeguards, including requirements as set forth in 20 USC 1439 and 34 CFR 303.400 et seq., and comply with those rights and procedural safeguard requirements.

p) Make himself/herself available as required for administrative hearings, complaint proceedings or legal proceedings involving services under this Part.

q) Assist as required in maintaining the child's EI record at the regional intake entity.

r) The evaluators/assessors shall meet criteria as set forth in this Part.

1) Evaluators/assessors shall attend additional training as set forth by the Department and shall agree in writing to operate within the framework of the DHS EI philosophy and best practices, prior to being authorized to perform and bill for evaluations and assessments.

2) In order to be paid for an evaluation/assessment, evaluators/assessors shall meet all deadlines for submitting evaluations/assessments as set forth in this Part and in the Early Intervention Service Provider Agreement.

3) Evaluators/assessors shall participate in the IFSP meeting, for which they will be reimbursed. The meeting shall be held within 45 days after the child is referred to the system, unless there is a delay over which they have no control.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

SUBPART D: FINANCIAL MATTERS

Section 500.120 Billing Procedures

a) Authorized services and devices shall be billed through the Department's centralized billing system.

b) Individual providers enrolled pursuant to requirements set forth in Section 500.60 may receive payment for authorized services and devices.

c) Direct services, equipment and supplies shall be reimbursed at a Department established rate.

d) Services and devices shall be authorized prior to delivery in order to be reimbursable.

e) EI providers shall bill the Department's centralized billing system as payor of last resort for authorized services, equipment and supplies pursuant to requirements

set forth in Section 500.115. Bills must be submitted to the Early Intervention Services System in accordance with billing instructions provided to the EI provider by the System.

f) Providers shall maintain and make available to the System, for a minimum of 5 years, adequate books, records and supporting documents regarding provision of and billing for services and devices, and shall comply with other recordkeeping requirements set forth in Section 500.110.

g) Payments are subject to the restrictions set forth in the Illinois Public Aid Code [305 ILCS 5/11-3].

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.125 Payor of Last Resort

Early intervention program money provided to the State under Part C may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source had Part C not been enacted. Part C funds may be used only for services that a child is not otherwise entitled to under any other federal, State, local or private source (including, but not limited to, Medicaid (Title XIX), the State Child Health Insurance Program (Title XXI), and the Division of Specialized Care for Children (Title V) program and private insurance). Nothing contained in the Part shall authorize or require the Department to provide payment for services or devices that would otherwise be paid by All Kids~~Medicaid~~ or any other insurance plan or policy or third party payor).

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.130 Family Fee/Insurance

a) A statewide sliding fee schedule shall be established by the Department annually for direct EI services and assistive technology devices set forth in Section 500.55, except for those services that are required to be provided at no cost to families. (See Appendix A.)

b) Each family's fee obligation shall be established annually. Family fees will be billed and collected in installments through the centralized billing system. Families shall not be required to pay more in annual fees than the cost of EI services and assistive technology devices received during the year and paid by the

EI system. At the written request of the family, the fee obligation shall be adjusted prospectively at any point during the year upon proof of change in family income or family size.

c) Parents shall have their private insurance billed for services and devices.

d) Recipients of medical assistance under Article V of the Illinois Public Aid Code or the Children's Health Insurance Program Act~~Medicaid, KidCare~~ and WIC Program recipients shall not be charged an EI fee. Parents of children eligible for Medicaid shall enroll their children with Medicaid so Medicaid funds can be accessed for EI services and devices.

e) No one shall be denied services based on inability to pay.

f) Families with insurance coverage, whether public or private, shall incur no greater or less direct out-of-pocket expenses for EI services than families who are not insured.

g) Exemptions:

1) A family may request exemption from the fee due to documentation of catastrophic circumstances or extraordinary expense, by showing either:

A) out-of-pocket medical expense in excess of 15% of gross income; or

B) a disaster such as fire, flood, or tornado causing direct out-of-pocket loss in excess of 15% of gross income.

2) A family may request exemption from insurance use upon documentation showing a material risk of losing coverage because:

A) the insurance plan/policy covering the child is an individually purchased policy/plan purchased by a head of household who is not eligible for group medical insurance; or

B) the insurance plan/policy has a lifetime cap that applies to one or more specific types of early intervention services specified in the IFSP that coverage could be exhausted during the period covered

by the service plan. The exemption will only apply to the early intervention service and/or plan or policy for which there is a showing of material risk of loss of coverage.

3) Regional intake entities shall submit requests for exemptions to the Department on the day that they are received, and the Department or its designee shall decide within 10 business days whether to grant the exemption and notify the family.

h) A parent wishing to contest his/her family fee assessment may request mediation or an administrative resolution under Section 500.145 or 500.140. Such request shall be made as soon as possible but at least within 30 days after notice of the fee assessment.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

SUBPART E: PROCEDURAL SAFEGUARDS/CLIENT RIGHTS

Section 500.135 Minimum Procedural Safeguards

a) The following minimal procedural safeguards are required by IDEA, regarding Part C early intervention services:

1) The timely administrative resolution of complaints by parents and the right to bring civil action with respect to the complaint in State or federal court;

2) The right to confidentiality of personally identifiable information, including the right of parents to written notice and written consent to exchange of information among agencies, consistent with federal and State law;

3) The right of the parents to determine whether they, their child or other family members will accept or decline any early intervention service under this Part without jeopardizing other early intervention services under this Part;

4) The opportunity for parents to examine records relating to evaluation, screening, eligibility determination, and the development and implementation of the Individualized Family Service Plan;

5) Procedures to protect the rights of the child when the parents are not known or cannot be found, or the child is a ward of the State, including the assignment of an individual (who is not an employee of a State agency, a family member or an early intervention services provider) to act as a surrogate;

6) Written prior notice to the parents of the child when the State agency or service provider proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or placement of the child in, or the provision of, appropriate early intervention services;

7) Procedures designed to ensure that the written~~Written~~ prior notice in subsection (a)(6)~~that~~ fully informs the parents in the parents' native language, unless it is clearly not feasible to do so, of all procedures available as set forth in this Section;

8) The right of parents to use mediation in accordance with 20 USC 1439(a)(8).

b) Regional intake entities and other providers of Part C early intervention services shall not violate the procedural safeguards and rights set forth in subsection (a). Furthermore, to the extent that they participate in any activity requiring procedures and rights in subsection (a), they shall comply with those procedures, assure the protection of those rights, and give clients timely and effective notice of those rights.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.140 Administrative Resolution of Complaints By Parents

a) Who May File: The parents of a child between birth to 36 months or a public agency (as defined at 34 CFR 303.21(2007)~~300.22 (2000)~~) may request an impartial administrative proceeding to resolve a dispute regarding the evaluation, identification, placement, delivery of services, or provision of appropriate services for their child (or if a public agency, for a child for whom it has responsibility).

b) Where to Send: A request for an impartial administrative proceeding (also called "complaint", "request for hearing" or "request for resolution") shall be made in

writing to the Department at:

Chief
Bureau of Administrative Hearings
Illinois Department of Human Services
100 S. Grand Avenue East – 3rd Floor
Springfield, Illinois 62762

With a copy to the regional intake entity serving the child and to:

Chief
Bureau of Early Intervention
Illinois Department of Human Services
222 South College, 2nd Floor
Springfield, Illinois 62704-1958

c) What Must be Included:

1) The complaint~~letter~~ requesting the hearing~~proceeding~~ shall include:

A~~1~~) the name, address, and telephone number of the child's parent, of the person making the request for the proceeding, if it is someone other than the child's parent, and of the child, or if no address, other available contact information;

B~~2~~) the name of the child and the child's birthdate;

C) the name and address of the child's regional intake entity;

D~~3~~) a description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem;

E~~4~~) authorization for release of the child's early intervention service records to the Department and the hearing officer;

F~~5~~) the remedy being sought or proposed resolution of the controversy to the extent known and available to the parents at the time;

G~~6~~) the primary language spoken by the parents;

H~~7~~) the service delivery agency and/or providers~~provider~~ involved in the dispute; and

I~~8~~) evidence supporting the remedy or proposed resolution (i.e., IFSP, family fee calculation form~~Family Resource Inventory~~, bill payment, etc.).

2) The complaint~~letter~~ shall be confidential and only used for purposes of resolution of the dispute and as agreed to by the child's parents.

d) Determination of Sufficiency: A party may not have an impartial administrative hearing until the party or its representative files a request for hearing containing all the information listed in subsection (c). The Request for Administrative Resolution of a Complaint by an Impartial Hearing Officer form shall be used, but the request will not be denied if the information is otherwise provided in writing. If the Department or other party deems the request insufficient, it shall notify the hearing officer and the complaining party in writing within 15 calendar days after receipt of the request. The hearing officer shall make a determination on the face of the notice as to whether or not it is sufficient, within five calendar days after receipt of the notification, and shall notify the parties in writing after that determination.

e) Child's Record to Department: The regional intake entity shall disclose the complete record of the child to the Department within five calendar days after receipt of the request for resolution.

f) Content and Assurance of Prior Notice: If "prior written notice" pursuant to Section 500.135(a)(6) was not provided to the parent regarding the subject matter of the parent's request for impartial administrative hearing, the regional intake entity shall send the parent a response within ten calendar days after receiving the complaint. This response shall not preclude the assertion that the parent's request for hearing is insufficient, where appropriate. The response shall include:

1) An explanation of why the agency proposed or refused to take the action raised in the complaint;

2) A description of other options the IFSP team considered and the reason why those options were rejected;

3) A description of the evaluation procedure, assessment, record or report the agency used as the basis for the proposed or refused action; and

4) A description of factors relevant to the agency's proposal or refusal.

g) Amendment of Request: A party may amend its request for hearing if the other parties consent in writing to the amendment and are given the opportunity to resolve the complaint through a resolution meeting as described in subsection (h), or if the hearing officer grants permission no later than five business days before an administrative hearing occurs. The timelines for the resolution meeting, described in subsection (h), and for resolution of the hearing request, begin anew with the filing of the amended request.

h) Resolution Period: Upon receipt of a sufficient request for hearing, the regional intake entity will convene a resolution meeting with the parent and the relevant member or members of the IFSP Team who have specific knowledge of the facts identified in the complaint, and with a Department representative if necessary. The purpose of this meeting is to provide the parents with an opportunity to resolve the complaint.

1) The resolution meeting must be held within 15 calendar days after receipt of the request for hearing.

2) The resolution meeting must include a representative who is authorized to make decisions on behalf of each party.

3) A party may not be represented by an attorney at the resolution meeting unless the parent is accompanied by an attorney.

4) If the parties are able to resolve the dispute during the resolution meeting, the parties shall execute a legally binding agreement that is signed by both the parent and the other party representatives and that is enforceable in any State court of competent jurisdiction or in a district court of the United States.

5) A party may void this agreement within three business days after the agreement's execution.

6) Though recommended, the resolution meeting is not mandatory if the parent and parties agree to waive it or agree to use mediation.

i~~d~~) Mediation Option: Upon receipt of a request for hearing~~an impartial proceeding~~, parties involved in the dispute shall be offered the option of mediation as set forth in Section 500.145.

j~~e~~) Services During Proceeding: During the pendency of any proceeding involving a complaint, unless the parent and the Department agree otherwise, the child must continue to receive the appropriate Part C EI services currently being provided. If the complaint involves application for initial Part C services, the child must receive those services that are not in dispute.

k~~f~~) Free and Low-Cost Services: The parent shall be informed of free or low cost legal and other related services available in the area if the parent requests that information or the parent or agency initiates a resolution under this Section. Regional intake entities shall maintain that information and make it available upon request or if a proceeding is initiated under this Section.

l~~g~~) Hearing Officer: Upon written request for an impartial proceeding, the Department shall appoint an impartial hearing officer. The Department shall maintain a list of hearing officers. An impartial hearing officer must:

1) be licensed to practice law in Illinois;

2) have knowledge about the provisions of IDEA Part C and the Illinois Early Intervention Services System Act, the needs of eligible children and their families, and services available to them under those statutes;

3) not be an employee of the Department or a State educational agency, LEA or private service provider involved in the provision of early intervention services or care of the child;

4) not have a personal or professional interest that would conflict with his/her objectivity in implementing the process.

m~~h~~) Time Limit to File: Complaints under this Part shall be submitted to the Department as soon as possible, but at least within three months after the complainant knew or should have known about the alleged activity in dispute. This timeline does not apply during any period of time that the parent was prevented from filing a complaint due to specific misrepresentations by the regional intake entity that it had resolved the problem, or during the withholding of information from the parent that is required to be provided under this Part.~~complaint's knowledge of the disputed activity.~~

n~~i~~) Parties: Organizations and/or providers and/or individuals with whom the complainant has a dispute shall be parties to the proceeding as deemed necessary by the impartial hearing officer in order to resolve the dispute.

o) 30-Day Resolution Period Prior to Hearing: If the regional intake entity has not resolved the complaint to the satisfaction of the parent within 30 days after the receipt of the request for hearing, the hearing may occur and the 45-day timeline for resolution of the complaint by the hearing officer begins. This 30-day time period will be delayed by any length of time the parent fails to participate in the resolution meeting, unless the parties have jointly agreed to waive the resolution meeting or to use mediation.

p) Parent or Regional Intake Entity Non-participation: If the regional intake entity is unable to obtain participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the hearing officer may dismiss the complaint. If the regional intake entity fails to hold the resolution meeting within 15 days after receiving notice of the complaint or fails to participate in the meeting, the parent may request the hearing officer to begin the 45-day timeline for resolution of the complaint.

q) 45-Day Hearing Resolution Time Period:

1) The hearing must be resolved within 45 days, with final decision completed and mailed to the parties. The 45-day time period begins the day after one of the following:

A) the parties agree in writing to waive the resolution meeting; or

B) a mediation or resolution meeting starts but the parties agree in writing before the end of the 30-day period that no agreement is possible; or

C) the parties agree in writing to continue the mediation at the end of the 30-day resolution period, but the parent or regional intake entity later withdraws from the mediation process.

2) The regional intake entity shall immediately notify the appointed hearing officer and the Department in writing as soon as any of the events described in subsection (q)(1) occur.

r~~j~~) Setting a Hearing: Within five days after receiving written notification that the 45-day time period for resolution has begun pursuant to subsection (q), ~~from the Department of Human Services,~~ the appointed hearing officer shall contact the parties to determine a time and place reasonably convenient to the parties for a hearing and any pre-hearing conferences. The hearing officer shall provide the parties and the Department at least 10~~ten~~ days' written notice of the dates, times, and locations of any pre-hearing conferences and of the hearing.

s~~k~~) Pre-hearing Conference: The hearing officer may conduct a pre-hearing conference either in person or by telephone in order to narrow the issues, determine stipulations by the parties, exchange evidence and names of witnesses, and consider other matters that may aid in efficient disposition of the case. At the conclusion of the pre-hearing conference, the hearing officer will prepare a written report of the conference to be entered into the hearing record memorializing the discussion, any stipulations and orders, and scheduling accommodations made for parties or witnesses.

t~~l~~) Party's Rights: Any party to a hearing has a right to:

1) be accompanied (at the party's expense) and advised by counsel and by individuals with special knowledge or training with respect to children with disabilities;

2) present evidence and confront, cross-examine, and compel the attendance of witnesses;

3) prohibit the introduction of any evidence at the proceeding that has not

been disclosed to that party at least five days before the proceedings;~~ and~~

4) obtain a written or, at the option of the parent, electronic verbatim record of the hearing; and~~.~~

5) obtain written or, at the option of the parent, electronic findings of fact and decision.

u~~m~~) Parents' Rights: Parents involved in hearings must be given the right to:

~~1) obtain written findings of fact and decision within 45 days after receipt of the request for impartial resolution;~~

1~~2~~) have the child who is the subject of the hearing present;~~ and~~

2~~3~~) open the hearing to the public (hearings shall be closed to the public unless the parent requests them to be open); and~~.~~

3) have the record of the hearing, the findings of fact and decision provided at no cost to the parents.

v~~n~~) Disclosure of Evidence and Witnesses: As soon as possible, but at least five business days prior to the hearing, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on those evaluations that the party intends to use at the hearing, as well as other evidence to be offered at hearing, names of all witnesses and the nature of their testimony, and any other relevant documentation whether or not it will be offered at hearing.

~~o) The regional intake entity shall disclose the complete record of the child to the Department within five business days after receipt of the letter requesting a proceeding under this Section.~~

w~~p~~) Barring Evidence and Witnesses: The hearing officer may bar any party failing to comply with subsection (v~~n~~) from introducing evidence or calling witnesses at hearing that were~~was~~ not produced as required in subsection (v~~n~~).

x) Scope of Hearing: No party shall be allowed to raise issues at the hearing that were not raised in the request for resolution, unless the other parties agree.

yq) Hearing Office Authority: The hearing officer is authorized to conduct the hearing, administer oaths, issue subpoenas to compel testimony or production of documents, rule on motions, grant continuances, call or examine witnesses, and take such other action as may be necessary to provide the parties with an opportunity to be heard fairly and expeditiously.

zr) Burden of Proof: At the hearing, the party requesting the administrative resolution has the burden of proceeding first and demonstrating by a preponderance of the evidence that the provision or proposed provision of EI services for the child violates Part C, the State Act, or this Part.

aas) Closing Arguments: Upon completion of the submission of evidence and testimony, parties shall be given a reasonable period of time to present written or oral arguments to complete the process within 45 days.

bb) Substantive Versus Procedural Violations: The hearing officer's determination as to whether the child received appropriate EI services shall be made on substantive grounds. In matters alleging a procedural violation, the hearing officer may find that a child did not receive appropriate EI services only if the procedural inadequacy impeded the child's right to appropriate EI services; or significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of appropriate EI services; or caused deprivation of developmental benefit. This does not preclude the hearing officer from ordering a regional intake entity to comply with procedural requirements.

cct) Hearing Record: The hearing officer shall maintain and prepare a record of the proceeding and shall prepare written findings and a decision that shall be served upon the parties. The record shall contain the request for an impartial administrative letter requesting the proceeding, evidence submitted at the hearing, a transcript or recording of the hearing, prehearing conference reports, motions, orders and all other material that is part of the record.

ddu) Findings Made Public: Any and all written findings and decisions shall be transmitted to the Illinois Interagency Council on Early Intervention and be made available to the public without personally identifying information.

eev) Request for Delay: Either party may request a delay in convening the hearing and/or the pre-hearing conference for good cause. The party requesting the delay shall do so in writing to the hearing officer, with a copy served at the same time to

all parties. The requesting party shall set forth the reasons for the request and the hearing officer shall, upon receiving the request, either grant or deny the request, taking into account the right to resolution as set forth in subsection (q), which may be waived. ~~The hearing officer shall contact the Department of Human Services with the date and place of the hearing and pre-hearing conference.~~

ff~~w~~) Appeal: Any party aggrieved by the findings and decision made in the hearing has a right to bring civil action in a State court of competent jurisdiction or in a district court of the United States regardless of the amount in controversy.

gg) Calculation of Time: Time periods set forth in this Section are calendar days unless otherwise specified.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.145 Mediation

a) Parties/Purpose

1) Any party having a dispute involving the identification, evaluation, or placement of a child for early intervention services, or the provision of early intervention services, may request mediation regardless of whether a request for an impartial administrative proceeding has been or will be made. The mediation request may occur prior to or simultaneously with a request for an administrative proceeding and is open to any and all parties (public agencies, private agencies, parents) having standing in the disputes.

2) The purpose of a mediation process is to provide an alternative to the impartial administrative resolution as a way to resolve disagreements between parents and early intervention services personnel. In virtually all cases, it is less costly and less adversarial than an administrative proceeding. Neither party is asked to abandon its beliefs about the child's ability. Rather, the parties are asked to consider alternatives that could be incorporated into the child's Individualized Family Service Plan and to be aware of the concerns and problems expressed by the other party.

b) Requests for mediation must be made in writing to:

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Chief
Bureau of Administrative Hearings
Department of Human Services
100 S. Grand Ave. East – 3rd Floor
Springfield, Illinois 62762

with a copy sent to the regional intake entity serving the child and to:

Chief
Bureau of Early Intervention
Department of Human Services
222 South College, 2nd Floor
Springfield, Illinois 62704-1958

c) The written request shall include the name and address of the child and of the person requesting mediation, a description of the nature of the problem of the child, including the facts related to the problem, a proposed resolution to the problem, supporting relevant documentation of the facts, and the name and address of service providers.

d) If a request for administrative resolution is made, mediation will be offered. Mediation may not be used to delay or deny the right to an administrative resolution or other rights under Part C.

e) The mediation will be conducted by a qualified and impartial mediator who is trained in effective mediation techniques and who is knowledgeable in laws and regulations relating to early intervention services under Part C. A mediator may not be an employee of an agency providing services to the child at issue nor of the Department, nor have a personal or professional conflict of interest.

f) The mediation is offered at no cost to the parties. It must be voluntary by all parties.

g) The mediator shall assure that a mediation conference is convened and concluded in a timely fashion and in no event later than the administrative resolution of a complaint under Section 500.140 if one was requested.

h) The mediator will contact the parties to set a mutually convenient date, time and location for the mediation conference, to answer any questions the parties may

have regarding the process, and to request additional information from the parties.

i) The role of the mediator is that of a neutral facilitator assisting parents and early intervention personnel to resolve their disagreement. Although the mediator is in control of the session, he/she is not the decision maker and may not compel action by either party. The mediator allows the parties to present their positions, establishes an understanding of the disagreement, determines points of agreement, and offers suggestions/proposals for resolution, attempting to help the parties achieve a mutual solution that is in the best interests of the child. The mediator facilitates the process. He or she summarizes positions and may help the parties consider possible alternatives.

j) If agreement is reached by the parties, it shall be set forth in a written mediation agreement signed by authorized representatives of the parties to the dispute. No record is kept of the discussions at the meeting. The mediation agreement will record only the date of the mediation, the parties to the mediation and terms agreed upon.

k) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent administrative hearing or civil proceeding. The parties will be asked to sign a confidentiality pledge prior to the commencement of the mediation. Only the fact that mediation occurred and the terms of any mediation agreement reached are admissible in subsequent proceedings.

l) Participants in the mediation conference should be limited to those necessary to resolution of the dispute and shall include persons authorized to act on behalf of the parties. In determining participants, the parties and mediator should be guided by desire to achieve mutual non-adversarial problem solving with the child's interests and the interests of the EI Services System as the goal.

m) The parties are expected to approach the mediation session in good faith and with the intention of attempting to reach an agreement. It is important that all parties approach the session with a willingness to listen and to consider all aspects of the issues in the interests of the child and of the EI Services System. They are active participants in the session and, if agreement is reached, develop the terms of the agreement with the assistance of the mediator.

n) The mediation allows an uninterrupted opportunity for both parties to present

their views in a non-adversarial setting. It allows parents and early intervention program personnel to focus on their common concerns, rather than their differences. Even if an agreement is not reached, there is the potential of both parties leaving the session with an enhanced perspective of the issues, and with a more positive working relationship.

o) Regional intake entities, service coordinators and other participants in the EI Services System shall encourage resolution of disputes by mediation.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

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Section 500.APPENDIX B Assessment Instruments (Repealed)

~~**DEVELOPMENTAL AREA/TEST NAME**~~	~~**DISCIPLINES**~~
~~**Cognitive**~~	
~~Cattell Infant Intelligence Scale~~ ~~Clinical Adaptive Test (CAT/CLAMS)~~ ~~Bayley Scales of Infant Development (BSID) – Mental~~ ~~Hawaii Early Learning Profile (HELP)~~ ~~Sensorimotor Profile (Hunt Ordinal Scales of Psychological Development)~~ ~~Uzgiris-Hunt: Dunst Revision~~	~~A professional with training and credentials and meeting the requirements specified by the particular test instrument.~~
~~**Motor**~~	
~~Alberta Infant Motor Scale~~ ~~Bayley Scales of Infant Development (BSID) – Motor~~ ~~Erhardt Developmental Test of Prehension~~ ~~Hawaii Early Learning Profile (HELP)~~ ~~Gross Motor Functional Measures~~ ~~Milani-Comparetti~~ ~~Peabody Developmental/Motor Test~~ ~~TIME: Miller~~	~~A professional with training and credentials and meeting the requirements specified by the particular test instrument.~~
~~**Communication**~~	

~~Callier-Azusa Scale~~ ~~Clinical Llinguistic and Auditory Milestone Scale (CLAMS)~~ ~~Communication and Symbolic Behavior Scales (CSBS)~~ ~~Goldman-Fristoe Test of Articulation~~ ~~Hawaii Early Learning Profile (HELP)~~ ~~McCarthy Communicative Development Inventory~~ ~~Non-Speech Test~~ ~~Preschool Language Scale (PLS) – Revised~~ ~~Receptive Expressive Emergent Language Scale (REEL)~~ ~~Reynell Developmental Language Scales – American Version~~ ~~Rosetti Infant Toddler Language Scale~~ ~~Sequenced Inventory of Communication Development (SICD)~~	~~A professional with training and credentials and meeting the requirements specified by the particular test instrument.~~

~~**Social/Emotional**~~

~~Achenbach Child Behavior Checklist~~ ~~Early Coping Inventory~~ ~~Functional Emotional Assessment Scales (FEAS)~~ ~~Functional Independence Measures (WEE FIMS)~~ ~~Hawaii Early Learning Profile (HELP)~~ ~~Vineland Adaptive Behavior Scales (VABS)~~	~~A professional with training and credentials and meeting the requirements specified by the particular test instrument.~~

~~**Adaptive**~~

~~Early Coping Inventory~~ ~~Functional Emotional Assessment Scales (FEAS)~~ ~~Hawaii Early Learning Profile (HELP)~~ ~~Pediatric Evaluation of Disability Inventory (PEDI)~~ ~~Test of Sensory Functioning in Infants~~ ~~Vineland Adaptive Behavior Scales (VABS)~~	~~A professional with training and credentials and meeting the requirements specified by the particular test instrument.~~

~~**Global**~~

~~Assessment Evaluation and Programming System (AEPS)~~ ~~Alpem-Boll Developmental Profile II~~ ~~Battelle Developmental Inventory~~ ~~Child Development Inventory (CDI)~~ ~~Infant Development Inventory (IDI)~~ ~~Hawaii Early Learning Profile (HELP)~~ ~~Infant-Toddler Developmental Assessment (IDA)~~ ~~Mullen Scales of Early Learning (MSEL)~~ ~~Reynell-Zinkin Scales: Developmental Scales For Young Handicapped Children~~ ~~Transdisciplinary Play Based Assessment (TPBA) (Toni Linder)~~	~~A professional with training and credentials and meeting the requirements specified by the particular test instrument.~~
~~**Hearing**~~	
~~Visual Reinforcement Audiometry (VRA)~~ ~~Play Audiometry~~	~~A professional with training and credentials and meeting the requirements specified by the particular test instrument.~~
~~**Vision**~~	
~~Erharadt Development Test of Vision~~	~~A professional with training and credentials and meeting the requirements specified by the particular test instrument.~~

(Source: Repealed at 32 Ill. Reg. 2161, effective January 23, 2008)

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Section 500.APPENDIX C Requirements for Professional and Associate Level Early Intervention (EI) Credentialing and Enrollment to Bill

Nothing in this Appendix C shall exempt any individual from compliance with any and all State licensing requirements and/or supervisory requirements pertinent to the individual's delivery of services.

EI SERVICE	QUALIFIED STAFF
Assistive Technology	Durable medical equipment and supplies; providers may enroll to bill. No credential required.
Audiology, Aural Rehabilitation/Other Related Services	Audiologists with a current license in the state where they provide services to Illinois children may enroll to bill. Audiologists are not required to obtain a credential. ~~Audiologists with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Audiologist credential and enroll to bill. Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~ (Provider is automatically enrolled under assistive technology and aural rehabilitation categories.) ~~Unlicensed individuals with a masters in audiology who are participating in a supervised professional experience may apply for an EI Associate: Audiologist in supervised professional experience credential. Associate services are billed under the enrolled supervisor's name. Additional training is required within 6 months after being issued a temporary credential for full associate credential status.*~~ Speech/Language Pathologists with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Speech/Language Pathologist credential and enroll to bill for aural rehabilitation services. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~ (Provider is

automatically enrolled under aural rehabilitation and speech therapy categories.)

Individuals~~Unlicensed individuals~~ with a masters in speech-language pathology who are participating in a supervised professional experience and hold a temporary license in the state where they provide services to Illinois children may apply for an EI Associate: Speech/Language Pathologist in supervised professional experience credential. Associate services are billed under the enrolled supervisor's name. ~~Additional training is required within 6 months after being issued a temporary credential for full associate credential status.~~

~~Unlicensed individuals employed by school districts as School Speech/Language Therapists who will only be providing services through their school employment may apply for an EI Specialist: School Speech/Language Therapist credential and enroll to bill for aural rehabilitation services. Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.* (Provider is automatically enrolled under aural rehabilitation and speech therapy categories.)~~

Individuals with a current Special Education degree for Deaf and Hard of Hearing ~~teaching certificate~~ may apply for an EI Specialist: Developmental Therapist/Hearing credential and enroll to bill for aural rehabilitation services. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~ May also provide Developmental Therapy Services. (Provider is automatically enrolled under aural rehabilitation category.)

Clinical Assessment, Counseling, and Other Therapeutic Services

Clinical Psychologists with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Clinical Psychologist credential and enroll to bill. ~~Additional training is required within 6~~

~~months after being issued a temporary credential for full credential status and continued enrollment.*~~

Clinical Professional Counselors with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Clinical Professional Counselor credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~

Marriage and Family Therapists with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Marriage and Family Therapist credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~

Clinical Social Workers with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Clinical Social Worker credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~

Behavior Analysts with current national certification as a Board Certified Behavior Analyst from the Behavior Analyst Certification Board may apply for an EI Specialist: Behavior Analyst credential and enroll to bill.

Unlicensed individuals employed by school districts as School Psychologists who will only be providing services through their school employment may apply for an EI Specialist: School Psychologist credential. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~

Graduate students in clinical psychology or clinical counseling who submit a letter from the graduate school

verifying that they are providing psychological or clinical counseling services in a supervised internship setting in order to complete a comprehensive, culminating training experience prior to granting of a graduate degree in psychology may apply for an EI Associate: Psychology/Counseling Intern credential. Associate services are billed under the enrolled supervisor's name. ~~Additional training is required within 6 months after being issued a temporary credential for full associate credential status.*~~

Developmental Therapy

Individuals with an EI Specialist Developmental Therapist credential on January 1, 2004 or who are applying for an EI Specialist Developmental Therapist credential prior to January 1, 2004 must have (1) a minimum of Teacher Endorsement in Early Childhood Education (ECE) or Special Education or bachelors degree in ECE, Early Childhood Special Education, Special Education, or human service field with one year of experience working hands on with children birth to 3 with developmental disabilities (Persons with a degree in a human service field must submit proof of training on the use of a formal assessment tool that would allow the provider to perform global evaluations/assessments.); or (2) a current license in art, music, recreation, or other type of therapy, rehabilitative or habilitative in nature, in the state where they provide services to Illinois children may apply for credential renewal or, prior to January 1, 2004, may apply for an EI Specialist Developmental Therapist credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.~~

Individuals who do not hold an EI Specialist Developmental Therapist credential on January 1, 2004 must have a bachelors degree or higher ~~and, when applicable, a teaching certificate~~ in Early Childhood Education ~~(Type 04)~~, Early Childhood Special Education ~~(Type 04)~~, Special Education ~~(LBS-1 or LBS-2)~~, Special Education: Deaf/Hard of Hearing or Blind/Partially Sighted ~~(3-21)~~, Child Development/Family Studies, Early Intervention, Elementary Education,

Developmental Psychology, or Social Work~~ and when applicable a teaching certificate~~; or with a bachelors degree or higher and a full specialist credential in the Early Intervention program; or a current license in art, music, recreation, or other type of therapy, rehabilitative or habilitative in nature, in the state where they provide services to Illinois children; and can document the completion of educational experiences as approved by the Department that include at least 2 semester college hours or the equivalent (30 clock hours or CEU credit hours) in each of the following EI core knowledge content areas: the Development of Young Children; Typical and Atypical; Working with Families of Young Children with Disabilities; Intervention Strategies for Young Children with Special Needs; and Assessment of Young Children with Special Needs; and can submit proof of training on the use of a formal assessment tool that would allow the provider to perform global evaluations/assessments may apply for an EI Specialist: Developmental Therapist credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~

An emergency waiver of educational requirements for developmental therapists may be applied for and must be accompanied by the recommendation of a regional intake entity manager documenting the need for developmental therapy services in the service area. A bachelors degree or higher is required. If approved, the resulting temporary credential will be awarded~~reviewed at 6-month intervals~~ for a maximum of 18 months. A training plan toward qualification for full credential status must be submitted with the emergency waiver application. ~~Additional training is required within 6 months for continued enrollment.*~~

Individuals with a ~~current~~ Special Education degree for Deaf and Hard of Hearing ~~teaching certificate~~ may apply for an EI Specialist: Developmental Therapist/Hearing credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential~~

~~status and continued enrollment.*~~ They may also provide aural rehabilitation services based on their qualifications and experience. (Provider is automatically enrolled under aural rehabilitation category.)

Individuals with (1) a bachelors degree or higher in Orientation and Mobility or (2) a ~~current~~ Special Education degree for Blind and Partially Seeing ~~teaching certificate~~ may apply for an EI Specialist: Developmental Therapist/Vision credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~ They may provide Developmental and/or Vision Therapy services related to visual functioning based on their qualifications and experience. (Provider is automatically enrolled under the vision category.)

Individuals with an associates degree in early childhood education or child development who have an EI Associate: Developmental Therapy Assistant temporary credential on July 1, 2003 may apply for full associate credential status if additional training requirements are met.* No other new temporary or full associate credentials for Developmental Therapy Assistants will be issued. Individuals who have an associate credential will be allowed to submit an application to have their credential renewed no more than two times after July 1, 2003. Associate services are billed under the enrolled supervisor's name.

Evaluation/Assessment

Individuals with a current Early Intervention Specialist credential and who also meet all the following requirements may apply for an Evaluation/Assessment credential:

Documentation of a minimum of three years (full time equivalent) pediatric experience within the Early Intervention Specialist credentialed discipline is required with no less than 20% of that experience related to infants and toddlers between birth and three years of age or the equivalent, with a minimum of one

year (full time equivalent) pediatric experience within the Early Intervention Specialist credentialed discipline with no less than 60% of that experience related to infants and toddlers;

Documentation of a minimum of six months pediatric post degree supervision;

Demonstration of competency in using and interpreting a variety of approved assessment tools related to his/her discipline by participating in evaluator specific training;

Demonstration of past work as a member of a service team and agreement to work with the service coordinator, other evaluators, and the family as an effective team member;

Agreement to participate in IFSP meetings as specified in this Part;

Agreement to perform evaluation/assessments and present recommendations thereon, that are consistent with DHS early intervention philosophy and best practices, and to provide adequate justification for recommendations based thereon;

Agreement to participate in routine quality assurance and/or early intervention monitoring activities conducted by the Department or its Designee, or the U.S. Department of Education, Office of Special Education Programs;

Agreement to comply with all applicable federal and/or State laws, rules, regulations, policies, provider agreement and procedure and guidelines;

Documentation of attendance at Evaluation/Assessment training as required and

provided by the Department.

The expiration date of an Evaluation/Assessment credential will coincide with the Early Intervention Specialist discipline specific credential. Renewal of the Evaluation/Assessment credential is contingent on the successful renewal of the Early Intervention Specialist discipline specific credential.

Family Training and Support

Individuals with a high school diploma or equivalent who are the parent or guardian of a child with special needs and are employed by an entity such as an agency or hospital that provides early intervention services as a Parent Liaison may apply for an EI Parent Liaison credential and enroll to bill. Completion of Parent Liaison Training is required within 90 days after being issued a temporary credential for full credential status and continued enrollment.

Individuals who are bilingual or an interpreter for the deaf may enroll to bill as an interpreter. Upon application for enrollment, the bilingual applicant must identify the languages for which he/she is applying to interpret and/or translate and document completion of Early Intervention Systems Training as defined in Section 500.60(f) and Early Intervention approved training for bilingual interpreter/translators and oral and/or written language proficiency using approved testing procedures. By September 1, 2008, all enrolled bilingual interpreters must have documented completion of Early Intervention approved training for bilingual interpreters/translators and oral and/or written language proficiency using approved testing procedures to maintain enrollment. ~~and his/her proficiency in reading, writing or speaking the languages and submit 2 letters of professional reference from non-family members attesting to the applicant's competency in the specified language areas.~~ Interpreters for the deaf must meet the requirements set forth in 225 ILCS 442 and document completion of Early Intervention Systems Training as defined in Section 500.60(f). ~~Additional training is required within 6 months for continued enrollment.* Interpreters are not~~

	~~required to obtain a credential.~~
	Deaf adults who have been certified by Hearing and Vision Connections as a language mentor for the deaf may enroll to bill. Language mentors are not required to obtain a credential
Health Consultation	Physicians with a current license in the state where they provide services to Illinois children may enroll to bill. Physicians are not required to obtain a credential.
Medical Services (Diagnostic/Evaluation Purposes Only)	Physicians with a current license in the state where they provide services to Illinois children may enroll to bill. Physicians are not required to obtain a credential. Individuals on the physician's service team should refer to the service area appropriate to their discipline for credentialing requirements.
Nursing	Registered Nurses with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Registered Nurse credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~ (Provider is automatically enrolled under nutrition category.)
Nutrition	Licensed Dietitian Nutritionists~~Dietitians~~ with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Dietitian credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~ ~~Licensed Nutrition Counselors with a current license in the state where they provide EI services to Illinois children may apply for an EI Specialist: Licensed Nutrition Counselor credential and enroll to bill. Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~

	Registered Nurses with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Registered Nurse credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~
Occupational Therapy	Occupational Therapists with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Occupational Therapist credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~
	Certified Occupational Therapy Assistants with a current license in the state where they provide services to Illinois children may apply for an EI Associate: Licensed Certified Occupational Therapy Assistant credential. Associate services are billed under the enrolled supervisor's name. ~~Additional training is required within 6 months after being issued a temporary credential for full associate credential status.*~~
Physical Therapy	Physical Therapists with a current license in the state where they provide Part C EI service to Illinois children may apply for an EI Specialist: Licensed Physical Therapist credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full associate credential status.*~~
	Physical Therapist~~Therapy~~ Assistants with a current license in the state where they provide services to Illinois children may apply for an EI Associate: Licensed Physical Therapist~~Therapy~~ Assistant credential. Associate services are billed under the enrolled supervisor's name. ~~Additional training is required within 6 months after being issued a temporary credential for full associate credential status.*~~

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Service Coordination	Individuals with an EI Service Coordination credential on January 1, 2003 and: (1) an EI Specialist credential of any type, (2) a bachelors degree or higher in human services, behavioral science, social science or health related field, (3) a current license as a Registered Nurse, (4) current employment as a service coordinator in a Family Case Management Agency, or (5) an associates degree in human services, education, behavioral science, social science, or health related field plus 2 years of experience working with children birth to 5 to provide intervention services or service coordination in a community agency serving children and families, may apply for renewal of their credential. Individuals who do not hold an EI Service Coordination credential on January 1, 2003 and with a bachelors degree or higher in human services, behavioral science, social science or health related field or a current license as a Registered Nurse may apply for an EI Service Coordination Credential and enroll as an employee of a Child and Family Connections office. Additional training is required within 90 days after being issued a temporary credential for full credential status and continued enrollment.
Social Services	Social Workers with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Social Worker credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~ Professional Counselors with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Professional Counselor credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~ ~~Registered Nurses/Advanced Practice Nurses who are masters prepared Psychiatric-Mental Health Clinical Nurse Specialists~~

~~with a current license in the state where they provide services may apply for an EI Specialist: Licensed Registered Nurse/Advanced Practice Nurse credential and enroll to bill. Additional training is required within 6 months after being issued a temporary credential for full associate credential status.* The Advanced Practice Nurse must provide a collaborative agreement with a collaborating physician who provides services to children birth to 3. The written collaborative agreement shall describe the working relationship of the Advanced Practice Nurse with the collaborating physician and shall authorize the categories of care, treatment, or procedures to be performed by the Advanced Practice Nurse, including early intervention services to be provided.~~

Unlicensed individuals employed by school districts as School Social Workers who will only be providing services through their school employment may apply for an EI Specialist: School Social Worker credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~

Graduate students in social work who submit a letter from their graduate school verifying that they are providing social work services in a supervised internship setting in order to complete a comprehensive, culminating training experience prior to granting of a graduate degree in social work may apply for an EI Associate: Social Work Intern credential. Associate services are billed under the enrolled supervisor's name. ~~Additional training is required within 6 months after being issued a temporary credential for full associate credential status.*~~

Speech Therapy

Speech/Language Pathologists with a current license in the state where they provide services to Illinois children may apply for an EI Specialist: Licensed Speech/Language Pathologist credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary~~

~~credential for full credential status and continued enrollment.*~~ (Provider is automatically enrolled under aural rehabilitation and speech therapy categories.)

~~Unlicensed individuals employed by school districts as School Speech/Language Therapists who will only be providing services through their school employment may apply for an EI Specialist: School Speech/Language Therapist credential and enroll to bill. Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~

Individuals~~Unlicensed individuals~~ with a masters in speech-language pathology who are participating in a supervised professional experience and hold a temporary license in the state where they provide services to Illinois children may apply for an EI Associate: Speech/Language Pathologist in supervised professional experience credential. Associate services are billed under the enrolled supervisor's name. ~~Additional training is required within 6 months for full associate credential status.*~~

Speech/Language Pathology Assistants with a current license in the state where they provide services to Illinois children may apply for an EI Associate: Speech/Language Therapy Assistant credential. Associate services are billed under the enrolled supervisor's name. ~~Additional training is required within 6 months after being issued a temporary credential for full associate credential status.*~~

Transportation

Individuals with an appropriate vehicle registration number, insurance and current driver's license may enroll to bill. Not required to obtain a credential.

Vision

Optometrists or Opthalmologists with a current license in the state where they provide services to Illinois children may enroll to bill. Not required to obtain a credential.

Individuals with (1) a bachelors degree or higher in

Orientation and Mobility or (2) a ~~current~~ Special Education degree for Blind and Partially Seeing ~~teaching certificate~~ may apply for an EI Specialist: Developmental Therapist/Vision credential and enroll to bill. ~~Additional training is required within 6 months after being issued a temporary credential for full credential status and continued enrollment.*~~ They may provide Developmental and/or Vision ~~Therapy~~ services related to visual functioning based on their qualification and experience.

~~* See Section 500.60(f) for additional training requirements.~~

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

Section 500.APPENDIX D Use of Associate Level Providers

Nothing in this Appendix D shall exempt any individual from compliance with any and all State licensing requirements and/or supervisory requirements pertinent to the individual's delivery of services.

In order to enlist the widest pool of qualified service providers, the EI System will support the appropriate use of credentialed, non-enrolled associate level providers who function under the following guidelines and whose services are billed for by their credentialed, enrolled supervisor.

GUIDELINES

Each credentialed associate level provider shall be supervised by a specialist credentialed/enrolled in the same discipline. (Appendix C identifies the requirements for professional and associate level credentialing and enrollment.)

1) The credentialed/enrolled specialist shall:

a) evaluate/assess the child, develop the plan for intervention services required to accomplish Service Plan outcomes and submit evaluation/assessment report prior to Service Plan development/update/review;

b) instruct the associate level provider about the intervention services to be provided;

c) reassess the child as determined by the child's Service Plan and any licensure requirement for the enrolled specialist or associate level staff at least prior to each Service Plan update/review;

d) revise the intervention activities as needed;

e) approve all methods and materials selected to implement the intervention plan;

f) for each child to which an associate level provider provides intervention services, conduct direct supervision during client services at a minimum of once each month;

g) submit direct service report prior to each Service Plan update/review and more often if the child's progress/lack of progress warrants;

h) submit bills for services provided by the associate level provider;

i) participate in Service Plan development/update/review; and

j) follow supervision requirements as set forth in his/her licensure or other certification standards.

2) The credentialed associate level provider shall:

a) provide services only as instructed by the supervising specialist;

b) record all early intervention services provided;

c) report all changes in child's condition to the supervising specialist;

d) check authorization to make sure the associate is identified in the comment field as the provider of direct service under the supervisor; and

e) if the associate's name does not appear in the comment field of the authorization, contact the child's service coordinator to correct the oversight.

3) The credentialed associate level ~~Audiologists and~~ Speech/Language Pathologist in his/her supervised professional experience shall:

a) provide services under the supervision of a specialist who is credentialed/enrolled in the same discipline;

b) provide services consistent with the Illinois Speech/Language Pathology and Audiology Practice Act that includes evaluation/assessment and service plan development; and

c) follow the guidelines as listed in (1) and (2) ~~above~~, except the restriction in (1)(a) that does not allow the associate to provide evaluation/assessment or service plan development and (1)(f) that requires supervision during client services at a minimum of once each month.

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NOTE: Supervisory time is non-billable time and is considered to be administrative time that is part of the rate paid.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

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Section 500.APPENDIX E Medical Conditions Resulting in High Probability of Developmental Delay (not an exclusive list)

1. Anomalies of Central Nervous System

   Spina Bifida/Mylomeningolecele
   Spina Bifida with Hydrocephaly
   Anomalies of the Spinal Cord
   Encephalocele
   Hydroencephalapathy
   Microencephaly
   Congenital Hydrocephalus
   Reduction Deformities of Brain

      Absence
      Agenesis
      Agyria
      Aplasia
      Arhinecephaly
      Holoprosencephaly
      Hypoplasia
      Lissencephaly
      Microgyria
      Schizencephaly

2. Birth weight: <1000 gm.

3. Chromosomal Disorders (most common, not to be used as an exclusive list)

   Trisomy 21 (Down's Syndrome)
   Trisomy 13
   Trisomy 18
   Autosomal Deletion Syndromes
   Fragile X Syndrome
   Williams Syndrome
   Angelmann's Syndrome
   Prader-Willi Syndrome

4. Congenital Infections

Toxoplasmosis
Rubella
Sytomegalovirus
Herpes Simplex with CNS involvement

5. Neonatal Meningitis

6. Cerebral Palsy

7. Craniofacial Anomalies (Major)

Cleft Palate

8. Disorders of the Sense Organs

Hearing loss of 30 decibels (dB) or greater at any two of the following frequencies: 500, 1000, 2000, 4000 and 8000 Hertz (Hz), or hearing loss of 35 dB or greater at any one of the following frequencies: 500, 1000 and 2000 (Hz) involving one or both ears.
~~Sensorineural Hearing Impairment, Bilateral <40 dB~~
Visual Impairment
Bilateral Amblyopia
Severe Retinopathy of Prematurity ROP 3+
Bilateral Cataracts
Myopia of 3 Dioptors or More
Albinism

9. Disorders of the Central Nervous System

Hypsarrhythmia
Acquired Hydrocephalus
Stroke
Traumatic Brain Injury
Intraventricular Hemorrhage – Grade III, IV
Hypoxic Ischemic Encephalopathy (with organ failure, seizures, renal failure, cardiac failure)
Unspecified Encephalopathy
Spinal Cord Injury

Neonatal Seizures (secondary to asphyxia or hypoglycemia)
Central Nervous System Cysts
Central Nervous System Tumors
Periventricular Leukomalacia

10. Inborn Errors of Metabolism

11. Neuromuscular Disorders

Congenital Muscular Dystrophy
Myotonic Dystrophy
Werdnig-Hoffman (Spinal Muscular Atrophy)
Congenital Myopathy
Duchenne

12. Pervasive Developmental Disorder/Autistic Spectrum

13. Syndromes *(see further instructions for DSCC referral)

Cornelia de Lange
Lowe's
Rett
Rubenstein-Taybi
CHARGE (multiple anomalies)
VATER

14. Fetal Alcohol Syndrome

Not just exposure to alcohol in utero or fetal alcohol effects, but a diagnosis of the syndrome

15. Orthopedic Abnormalities

Brachioplexus at Birth
Caudal Regression
Proximal Focal Femoral Deformities
Partial Amputations
Holt-Oram
Acquired Amputations

Arthrogryposis Multiplex Congenita
Osteogenesis Imperfecta *(see further instruction for DSCC referral)

16. Technology Dependent

Tracheostomy
Ventilator Dependent *(see further instruction for DSCC referral)

17. Social Emotional Disorders

Attachment or Relationship Disorder

Children with medical conditions that are not listed may be determined eligible for services by a qualified family physician, pediatrician or pediatric subspecialist (pediatric neurologist, geneticist, pediatric orthopedic surgeon, pediatrician with special interest in disabilities) who provides written verification that the child's medical condition is associated with a high probability of developmental delay as listed in eligibility criteria.

Children with undiagnosed medical conditions or who require further medical evaluation may be referred by the Child and Family Connections (regional intake entity) for a medical diagnostic evaluation.

~~If you have any questions regarding these eligible medical conditions or medical diagnostic services, please contact your local Illinois Medical Diagnostic Network (IMDN) representative.~~

* Referring to DSCC – Children with Cleft Palate, Orthopedic Abnormalities, or other potential DSCC eligible diagnoses associated with physical disabilities should be referred to the Division of Specialized Care for Children (DSCC). DSCC may provide medical diagnostic support at no cost to the family. Simultaneously Child and Family Connections should complete the intake process as usual. DSCC will determine the type of ongoing assistance they can provide.

(Source: Amended at 32 Ill. Reg. 2161, effective January 23, 2008)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Water Quality Standards

2) Code Citation: 35 Ill. Adm. Code 302

3)

Section Numbers:	Adopted Action:
302.100	Amend
302.206	Amend
302.APPENDIX D	New Section

4) Statutory Authority: Implementing Sections 11(b) and 13 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/11(b), 13, and 27]

5) Effective Date of Amendments: January 28, 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, 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: August 3, 2007; 31 Ill. Reg. 11028

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

11) Differences between proposal and final version: The Board made changes to Section 302.206(d) that were proposed by the Illinois Environmental Protection Agency to use "consecutive 24-hour periods" instead of using "calendar days" when measuring DO-standard attainment. Additionally, the Board made minor clarification changes to the listing of the water bodies in the new Appendix D, and nonsubstantive changes to Section 302.206(d) suggested by JCAR.

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? Yes

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section Numbers:	Proposed Action:	*Illinois Register* Citation:
302.102	Amend	31 Ill Reg. 13624; October 5, 2007
302.208	Amend	31 Ill Reg. 13624; October 5, 2007

15) Summary and Purpose of Amendments: For a more detailed discussion of these amendments, see the Board's January 24, 2008 opinion and order in docket R04-25: In the Matter of: Proposed Amendments to Dissolved Oxygen Standard 35 Ill. Adm. Code 302.206. This rulemaking adopts amendments to the Board's general use water quality standard for dissolved oxygen, or "DO". The adopted amendments are based on aspects of both the proposal filed by the Illinois Association of Wastewater Agencies (IAWA) and the joint proposal later filed by the Illinois Department of Natural Resources (DNR) and the Illinois Environmental Protection Agency (Agency). Further, the amendments are consistent with the National Criteria Document, or "NCD", for DO of the United States Environmental Protection Agency (USEPA), *Ambient Aquatic Life Water Quality Criteria for Dissolved Oxygen (Freshwater)* (USEPA, Chapman 1986).

The adopted amendments include a two-season numeric DO standard with values based on daily minima and 7- and 30-day averages. The "early life stages" season of the two-season numeric DO standard runs from March 1st through July 31st. The "early life stages" of fish (egg, embryo, larval, and recently-hatched juvenile) are more sensitive to low DO concentrations than later juvenile and adult stages and, therefore, warrant greater protection. Additionally, the adopted amendments designate stream segments, approximately 8% of general use stream miles in Illinois, to receive "enhanced" numeric dissolved oxygen standards to protect DO-sensitive fish and macroinvertebrate species present in meaningful amounts. The final amendments also include a narrative DO standard to protect quiescent and isolated sectors of general use waters where naturally-occurring DO concentrations cannot reasonably be expected to attain the numeric DO standards.

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

Richard McGill
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6983

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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 R04-25 in your request. The Board order is 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 C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 302
WATER QUALITY STANDARDS

SUBPART A: GENERAL WATER QUALITY PROVISIONS

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302.101 Scope and Applicability
302.102 Allowed Mixing, Mixing Zones and ZIDs
302.103 Stream Flows
302.104 Main River Temperatures
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SUBPART B: GENERAL USE WATER QUALITY STANDARDS

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SUBPART D: SECONDARY CONTACT AND INDIGENOUS AQUATIC LIFE STANDARDS

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302.401 Scope and Applicability
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SUBPART E: LAKE MICHIGAN BASIN WATER QUALITY STANDARDS

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302.509 Other Sources
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302.515 Offensive Conditions
302.520 Regulation and Designation of Bioaccumulative Chemicals of Concern (BCCs)
302.521 Supplemental Antidegradation Provisions for Bioaccumulative Chemicals of Concern (BCCs)

302.525 Radioactivity
302.530 Supplemental Mixing Provisions for Bioaccumulative Chemicals of Concern (BCCs)
302.535 Ammonia Nitrogen
302.540 Other Toxic Substances
302.545 Data Requirements
302.550 Analytical Testing
302.553 Determining the Lake Michigan Aquatic Toxicity Criteria or Values – General Procedures
302.555 Determining the Tier I Lake Michigan Acute Aquatic Toxicity Criterion (LMAATC): Independent of Water Chemistry
302.560 Determining the Tier I Lake Michigan Basin Acute Aquatic Life Toxicity Criterion (LMAATC): Dependent on Water Chemistry
302.563 Determining the Tier II Lake Michigan Basin Acute Aquatic Life Toxicity Value (LMAATV)
302.565 Determining the Lake Michigan Basin Chronic Aquatic Life Toxicity Criterion (LMCATC) or the Lake Michigan Basin Chronic Aquatic Life Toxicity Value (LMCATV)
302.570 Procedures for Deriving Bioaccumulation Factors for the Lake Michigan Basin
302.575 Procedures for Deriving Tier I Water Quality Criteria and Values in the Lake Michigan Basin to Protect Wildlife
302.580 Procedures for Deriving Water Quality Criteria and Values in the Lake Michigan Basin to Protect Human Health – General
302.585 Procedures for Determining the Lake Michigan Basin Human Health Threshold Criterion (LMHHTC) and the Lake Michigan Basin Human Health Threshold Value (LMHHTV)
302.590 Procedures for Determining the Lake Michigan Basin Human Health Nonthreshold Criterion (LMHHNC) or the Lake Michigan Basin Human Health Nonthreshold Value (LMHHNV)
302.595 Listing of Bioaccumulative Chemicals of Concern, Derived Criteria and Values

SUBPART F: PROCEDURES FOR DETERMINING WATER QUALITY CRITERIA

Section
302.601 Scope and Applicability
302.603 Definitions
302.604 Mathematical Abbreviations
302.606 Data Requirements
302.612 Determining the Acute Aquatic Toxicity Criterion for an Individual Substance –

General Procedures
302.615 Determining the Acute Aquatic Toxicity Criterion – Toxicity Independent of Water Chemistry
302.618 Determining the Acute Aquatic Toxicity Criterion – Toxicity Dependent on Water Chemistry
302.621 Determining the Acute Aquatic Toxicity Criterion – Procedure for Combinations of Substances
302.627 Determining the Chronic Aquatic Toxicity Criterion for an Individual Substance – General Procedures
302.630 Determining the Chronic Aquatic Toxicity Criterion – Procedure for Combinations of Substances
302.633 The Wild and Domestic Animal Protection Criterion
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302.660 Bioconcentration Factor
302.663 Determination of Bioconcentration Factor
302.666 Utilizing the Bioconcentration Factor
302.669 Listing of Derived Criteria

302.APPENDIX A References to Previous Rules
302.APPENDIX B Sources of Codified Sections
302.APPENDIX C Maximum total ammonia nitrogen concentrations allowable for certain combinations of pH and temperature
302.TABLE A pH-Dependent Values of the AS (Acute Standard)
302.TABLE B Temperature and pH-Dependent Values of the CS (Chronic Standard) for Fish Early Life Stages Absent
302.TABLE C Temperature and pH-Dependent Values of the CS (Chronic Standard) for Fish Early Life Stages Present
302.APPENDIX D Section 302.206(d): Stream Segments for Enhanced Dissolved Oxygen Protection

AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b), and 27].

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 6 Ill. Reg. 13750, effective October 26, 1982; amended at 8 Ill. Reg. 1629, effective January 18, 1984; peremptory amendments at 10 Ill. Reg. 461, effective December 23, 1985; amended at R87-27 at 12 Ill. Reg. 9911, effective May 27, 1988; amended at R85-29 at 12 Ill. Reg. 12082, effective July 11, 1988; amended in R88-1 at 13 Ill. Reg. 5998, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2899, effective February 13, 1990; amended in R88-21(B) at 14 Ill. Reg. 11974, effective July 9, 1990; amended in R94-1(A) at 20 Ill. Reg. 7682, effective May 24, 1996; amended in R94-1(B) at 21 Ill. Reg. 370, effective December 23, 1996; expedited correction at 21 Ill. Reg. 6273, effective December 23, 1996; amended in R97-25 at 22 Ill. Reg. 1356, effective December 24, 1997; amended in R99-8 at 23 Ill. Reg. 11249, effective August 26, 1999; amended in R01-13 at 26 Ill. Reg. 3505, effective February 22, 2002; amended in R02-19 at 26 Ill. Reg. 16931, effective November 8, 2002; amended in R02-11 at 27 Ill. Reg. 166, effective December 20, 2002; amended in R04-21 at 30 Ill. Reg. 4919, effective March 1, 2006; amended in R04-25 at 32 Ill. Reg. 2254, effective January 28, 2008.

SUBPART A: GENERAL WATER QUALITY PROVISIONS

Section 302.100 Definitions

Unless otherwise specified, the definitions of the Environmental Protection Act (Act) [415 ILCS 5] and 35 Ill. Adm. Code 301 apply to this Part. As used in this Part, each of the following definitions has the specified meaning.

"Acute Toxicity" means the capacity of any substance or combination of substances to cause mortality or other adverse effects in an organism resulting from a single or short-term exposure to the substance.

"Adverse Effect" means any gross or overt effect on an organism, including but not limited to reversible histopathological damage, severe convulsions, irreversible functional impairment and lethality, as well as any non-overt effect on an organism resulting in functional impairment or pathological lesions which may affect the performance of the whole organism, or which reduces an organism's ability to respond to an additional challenge.

"Chronic Toxicity" means the capacity of any substance or combination of substances to cause injurious or debilitating effects in an organism which result

from exposure for a time period representing a substantial portion of the natural life cycle of that organism, including but not limited to the growth phase, the reproductive phases or such critical portions of the natural life cycle of that organism.

"Criterion" means the numerical concentration of one or more toxic substances derived in accordance with the procedures in Subpart F of this Part which, if not exceeded, would assure compliance with the narrative toxicity standard of Section 302.210 of this Part.

"Early Life Stages" of fish means the pre-hatch embryonic period, the post-hatch free embryo or yolk-sac fry, and the larval period, during which the organism feeds. Juvenile fish, which are anatomically similar to adults, are not considered an early life stage.

"Hardness" means a water quality parameter or characteristic consisting of the sum of calcium and magnesium concentrations expressed in terms of equivalent milligrams per liter as calcium carbonate. Hardness is measured in accordance with methods specified in 40 CFR 136, incorporated by reference in 35 Ill. Adm. Code 301.106.

"Mixing Zone" means a portion of the waters of the State identified as a region within which mixing is allowed pursuant to Section 302.102(d) of this Part.

"Thermocline" means the plane of maximum rate of decrease of temperature with respect to depth in a thermally stratified body of water.

"Total Residual Chlorine" or "TRC" means those substances which include combined and uncombined forms of both chlorine and bromine and which are expressed, by convention, as an equivalent concentration of molecular chlorine. TRC is measured in accordance with methods specified in 40 CFR 136, incorporated by reference in 35 Ill. Adm. Code 301.106.

"Toxic Substance" means a chemical substance that causes adverse effects in humans, or in aquatic or terrestrial animal or plant life. Toxic substances include, but are not limited to, those substances listed in 40 CFR 302.4, incorporated by reference in 35 Ill. Adm. Code 301.106, or any "chemical substance" as defined by the Illinois Chemical Safety Act [430 ILCS 45]

"ZID" or "Zone of Initial Dilution" means a portion of a mixing zone, identified pursuant to Section 302.102(e) of this Part, within which acute toxicity standards need not be met.

(Source: Amended at 32 Ill. Reg. 2254, effective January 28, 2008)

SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section 302.206 Dissolved Oxygen

General use waters must maintain dissolved oxygen concentrations at or above the values contained in subsections (a), (b) and (c) of this Section. ~~Dissolved oxygen (STORET number 00300) shall not be less than 6.0 mg/1 during at least 16 hours of any 24 hour period, nor less than 5.0 mg/1 at any time.~~

a) General use waters at all locations must maintain sufficient dissolved oxygen concentrations to prevent offensive conditions as required in Section 302.203 of this Part. Quiescent and isolated sectors of General Use waters including but not limited to wetlands, sloughs, backwaters and waters below the thermocline in lakes and reservoirs must be maintained at sufficient dissolved oxygen concentrations to support their natural ecological functions and resident aquatic communities.

b) Except in those waters identified in Appendix D of this Part, the dissolved oxygen concentration in the main body of all streams, in the water above the thermocline of thermally stratified lakes and reservoirs, and in the entire water column of unstratified lakes and reservoirs must not be less than the following:

1) During the period of March through July,

A) 5.0 mg/L at any time; and

B) 6.0 mg/L as a daily mean averaged over 7 days.

2) During the period of August through February,

A) 3.5 mg/L at any time;

B) 4.0 mg/L as a daily minimum averaged over 7 days; and

C) 5.5 mg/L as a daily mean averaged over 30 days.

c) The dissolved oxygen concentration in all sectors within the main body of all streams identified in Appendix D of this Part must not be less than:

1) During the period of March through July,

A) 5.0 mg/L at any time; and

B) 6.25 mg/L as a daily mean averaged over 7 days.

2) During the period of August through February,

A) 4.0 mg/L at any time;

B) 4.5 mg/L as a daily minimum averaged over 7 days; and

C) 6.0 mg/L as a daily mean averaged over 30 days.

d) Assessing attainment of dissolved oxygen mean and minimum values.

1) Daily mean is the arithmetic mean of dissolved oxygen concentrations in 24 consecutive hours.

2) Daily minimum is the minimum dissolved oxygen concentration in 24 consecutive hours.

3) The measurements of dissolved oxygen used to determine attainment or lack of attainment with any of the dissolved oxygen standards in this Section must assure daily minima and daily means that represent the true daily minima and daily means.

4) The dissolved oxygen concentrations used to determine a daily mean or daily minimum should not exceed the air-equilibrated concentration.

5) Daily minimum averaged over 7 days means the arithmetic mean of daily minimum dissolved oxygen concentrations in 7 consecutive 24-hour periods.

6) Daily mean averaged over 7 days means the arithmetic mean of daily mean dissolved oxygen concentrations in 7 consecutive 24-hour periods.

7) Daily mean averaged over 30 days means the arithmetic mean of daily mean dissolved oxygen concentrations in 30 consecutive 24-hour periods.

(Source: Amended at 32 Ill. Reg. 2254, effective January 28, 2008)

Section 302.APPENDIX D Section 302.206(d): Stream Segments for Enhanced Dissolved Oxygen Protection

BASIN NAME

Segment Name

Segment No.

End Points		Latitude	Longitude	COUNTY
Illinois				
Aux Sable Creek				
239				
	start	41.3982125891033	-88.3307365155966	GRUNDY
	end	41.5221610266554	-88.3153074461322	KENDALL
Baker Creek				
123				
	start	41.0993159446094	-87.833779044559	KANKAKEE
	end	41.1187483257075	-87.7916507082604	KANKAKEE
Baptist Creek				
160				
	start	40.5172643895406	-90.9781701980636	HANCOCK
	end	40.5217773790395	-90.9703232423026	HANCOCK
Barker Creek				
170				
	start	40.4730175690641	-90.3623822544051	FULTON
	end	40.4505102531327	-90.423698306895	FULTON
Battle Creek				
196				
	start	41.791467372356	-88.6440656199133	DE KALB
	end	41.8454435074814	-88.6580317835588	DE KALB
Big Bureau Creek				
209				

	start	41.2403303426443	-89.3778305139628	BUREAU
	end	41.6599418992971	-89.0880711727354	LEE
Big Rock Creek				
275				
	start	41.6325949399571	-88.5379727020413	KENDALL
	end	41.7542831812644	-88.5621629654129	KANE
Blackberry Creek				
271				
	start	41.6432480686252	-88.451129393594	KENDALL
	end	41.7663693677829	-88.3855968808499	KANE
Boone Creek				
284				
	start	42.3430701828297	-88.2604646456881	MCHENRY
	end	42.3116813126792	-88.3284649937798	MCHENRY
Buck Creek				
225				
	start	41.4305449377211	-88.7732713228626	LA SALLE
	end	41.4508806057478	-88.919966063547	LA SALLE
403				
	start	40.6513984442885	-88.8660496976016	MCLEAN
	end	40.6757825960266	-88.8490439132056	MCLEAN
Camp Creek				
116				
	start	41.0119168530464	-89.7317034650143	STARK
	end	41.0202988179758	-89.6817209218761	STARK
168				
	start	40.2936155016035	-90.7791785207262	MCDONOUGH
	end	40.3985161419285	-90.5089903510732	MCDONOUGH
Camp Run				
115				
	start	41.0119168530464	-89.7317034650143	STARK

	end	41.0575944852479	-89.6822685234528	STARK
Cantway Slough				
250				
	start	41.1654521279715	-87.6179423055771	KANKAKEE
	end	41.1204910206261	-87.6018847740212	KANKAKEE
Cedar Creek				
164				
	start	40.4187924503946	-91.0119249544251	HANCOCK
	end	40.4320989747514	-90.9816512014458	HANCOCK
Central Ditch				
17				
	start	40.2466345144431	-89.8605138200519	MASON
	end	40.259146892407	-89.8331744969958	MASON
Clear Creek				
70				
	start	40.2358631766436	-89.1715114085864	LOGAN
	end	40.2817523596784	-89.2105606026356	MCLEAN
Coal Creek				
173				
	start	40.6458316286298	-90.2773695191768	FULTON
	end	40.6911917975894	-90.0990104026141	FULTON
Collins Run				
243				
	start	41.4219631544372	-88.3508108111242	GRUNDY
	end	41.4172036201222	-88.3955434158999	GRUNDY
Conover Branch				
184				
	start	39.8376993452498	-90.1465720267561	MORGAN
	end	39.8696939232648	-90.1234898871846	MORGAN
Coon Creek				
60				

	start	40.1076562155273	-89.0130117597621	DEWITT
	end	40.1755351290733	-88.8857086715202	DEWITT
Coop Branch				
31				
	end	39.2042878811665	-90.0972130791043	MACOUPIN
	end	39.1194481626997	-89.9878509202749	MACOUPIN
Coopers Defeat Creek				
114				
	start	41.1557502062867	-89.748162019475	STARK
	end	41.1485959333575	-89.6944246708098	STARK
Copperas Creek				
88				
	start	40.4856512052475	-89.8867983078194	FULTON
	end	40.549513691198	-89.9011907117391	FULTON
Court Creek				
122				
	start	40.9184191403691	-90.1108008628507	KNOX
	end	40.9349919352638	-90.2673514797552	KNOX
Cox Creek				
177				
	start	40.0231674243157	-90.1158780774246	CASS
	end	39.9657957063914	-90.0180644049351	CASS
Crane Creek				
174				
	start	40.1328714038267	-89.9709414534257	MENARD
	end	40.2466345144431	-89.8605138200519	MASON
Crow Creek				
102				
	start	40.9323207251964	-89.4264477600798	MARSHALL
	end	40.9663161180876	-89.2558617294218	MARSHALL
Deer Creek				

59				
	start	40.117679723776	-89.3801215076251	LOGAN
	end	40.1915602627115	-89.1582023776838	LOGAN
Dickerson Slough				
421				
	start	40.3597968706068	-88.3225685158141	CHAMPAIGN
	end	40.4568389800294	-88.3442742579475	FORD
Drummer Creek				
423				
	start	40.37389931547	-88.3480753423386	CHAMPAIGN
	end	40.479101489993	-88.388698487066	FORD
Dry Fork				
35				
	start	39.1989703827155	-89.9609795725648	MACOUPIN
	end	39.1445756951412	-89.8876581181152	MACOUPIN
Du Page River				
268				
	start	41.4988385272507	-88.2166248594859	WILL
	end	41.7019525201778	-88.1476209409341	WILL
Eagle Creek				
392				
	start	41.1360015419764	-88.8528525904771	LA SALLE
	end	41.1291172842462	-88.8664977236647	LA SALLE
East Aux Sable Creek				
240				
	start	41.5221610266554	-88.3153074461322	KENDALL
	end	41.6231669397764	-88.2938779285952	KENDALL
East Branch Big Rock Creek				
277				
	start	41.7542830239271	-88.5621632556731	KANE
	end	41.8161922949561	-88.6002917634599	KANE

East Branch Copperas Creek				
47				
	start	40.549514632509	-89.901189903351	FULTON
	end	40.6583152735498	-89.8516717710553	PEORIA
East Fork La Moine River				
167				
	start	40.3962156185095	-90.9339386121768	HANCOCK
	end	40.4506930058171	-90.758703782814	MCDONOUGH
East Fork Mazon River				
256				
	start	41.1872307009926	-88.2731640461448	GRUNDY
	end	41.0815161304671	-88.3093601699244	LIVINGSTON
East Fork Spoon River				
110				
	start	41.2158736312898	-89.6870256054763	STARK
	end	41.2603216291895	-89.7311074496692	BUREAU
Easterbrook Drain				
410				
	start	40.3687232740908	-88.5787269955356	MCLEAN
	end	40.3909243275675	-88.5484031360558	MCLEAN
Exline Slough				
252				
	start	41.1187483257075	-87.7916507082604	KANKAKEE
	end	41.3377194296138	-87.674538578544	WILL
Fargo Run				
94				
	start	40.8110626738718	-89.7625906815013	PEORIA
	end	40.7936211492847	-89.7147157689809	PEORIA
Ferson Creek				
281				
	start	41.9275380999085	-88.3177738518806	KANE

	end	41.9518312998438	-88.3965138071814	KANE
Fitch Creek				
131				
	start	41.0629732421579	-89.9929808862433	KNOX
	end	41.1048465021615	-90.0171275726119	KNOX
Forked Creek				
265				
	start	41.312634893655	-88.1518349597477	WILL
	end	41.4208599921871	-87.8221168060732	WILL
Forman Creek				
129				
	start	41.0920068762041	-90.1229512077171	KNOX
	end	41.061779692349	-90.1373931430424	KNOX
Fourmile Grove Creek				
232				
	start	41.5880621752377	-89.0154533767497	LA SALLE
	end	41.6281572065102	-89.0480036727754	LEE
Fox Creek				
121				
	start	41.2158736312898	-89.6870256054763	STARK
	end	41.2178841576744	-89.6378797955943	BUREAU
Fox River				
270				
	start	41.6177003859476	-88.5558384703467	KENDALL
	end	41.7665361019038	-88.3100243828453	KANE
Friends Creek				
56				
	start	39.9296881580789	-88.7753341828841	MACON
	end	40.0511150621524	-88.756810733868	MACON
Furrer Ditch				
175				

	start	40.259146892407	-89.8331744807195	MASON
	end	40.256856262248	-89.8235353908665	MASON
Gooseberry Creek				
138				
	start	41.0815161304671	-88.3093601699244	LIVINGSTON
	end	41.0229178273291	-88.3433997610298	LIVINGSTON
181				
	start	41.2273512263311	-88.3737634512576	GRUNDY
	end	41.1567969821084	-88.3954921510714	GRUNDY
Grindstone Creek				
169				
	start	40.2936155016035	-90.7791785207262	MCDONOUGH
	end	40.3128991202966	-90.6514786739624	MCDONOUGH
Hall Ditch				
176				
	start	40.214043063866	-89.8947856138658	MASON
	end	40.1996396083582	-89.8430392085184	MASON
Hallock Creek				
101				
	start	40.9330251540704	-89.523027406387	PEORIA
	end	40.9162496002415	-89.5368879858621	PEORIA
Haw Creek				
125				
	start	40.8575772861862	-90.2335091570553	KNOX
	end	40.9174343445877	-90.3387634753254	KNOX
Henline Creek				
401				
	start	40.5867014223785	-88.6971328093932	MCLEAN
	end	40.6247936449316	-88.6315733675586	MCLEAN
Henry Creek				
100				

	start	40.932455717876	-89.5256512687818	PEORIA
	end	40.9472322228041	-89.5711427004422	PEORIA
Hermon Creek				
126				
	start	40.7818347201379	-90.2738699961108	KNOX
	end	40.7628476930817	-90.3372052339614	KNOX
Hickory Creek				
244				
	start	41.5038289458964	-88.0990240076033	WILL
	end	41.4935392717868	-87.8108342251738	WILL
Hickory Grove Ditch				
87				
	start	40.4870721779667	-89.7285827911466	TAZEWELL
	end	40.4136575635669	-89.7349507058786	MASON
Hickory Run				
93				
	start	40.8217198390551	-89.7449749384213	PEORIA
	end	40.8581447502391	-89.7622130910013	PEORIA
Hillsbury Slough				
416				
	start	40.3453953438371	-88.3035309970523	CHAMPAIGN
	end	40.3928682378873	-88.2265028280313	CHAMPAIGN
Hodges Creek				
34				
	start	39.2630316914552	-90.1858200381692	GREENE
	end	39.2801974743086	-90.1528766403572	GREENE
Hurricane Creek				
44				
	start	39.449376470161	-90.5400508230403	GREENE
	end	39.4781872332274	-90.4508986197452	GREENE
Illinois River				

236				
	start	41.3255740245957	-88.9910230492306	LA SALLE
	end	41.3986780470527	-88.2686499362959	GRUNDY
Indian Creek				
120				
	start	40.988610901184	-89.8221496834014	STARK
	end	41.2003389912185	-89.9349435285117	HENRY
182				
	start	39.8785447641605	-90.3782080959549	CASS
	end	39.8234731084942	-90.103743390331	MORGAN
224				
	start	41.7480730242898	-88.8741562924388	DE KALB
	end	41.7083887626958	-88.9437996894049	LEE
226				
	start	41.4400734113231	-88.7627018786422	LA SALLE
	end	41.7377348577433	-88.8557728844589	DE KALB
396				
	start	40.7701181840118	-88.4858209632899	LIVINGSTON
	end	40.6469799222669	-88.4812665778082	LIVINGSTON
Iroquois River				
253				
	start	41.0739205590002	-87.8152251833303	KANKAKEE
	end	40.9614905075375	-87.8149010739444	IROQUOIS
447				
	start	40.7817769095357	-87.7532807121524	IROQUOIS
	end	40.8174648935578	-87.5342555764515	IROQUOIS
Jack Creek				
109				
	start	41.1283656948767	-89.7699479168181	STARK
	end	41.150467875432	-89.8374616586589	STARK
Jackson Creek				

246				
	start	41.4325013563553	-88.1725611633353	WILL
	end	41.4638503957577	-87.9160301224816	WILL
Joes Creek				
33				
	start	39.2801974743086	-90.1528766403572	GREENE
	end	39.3757180969001	-90.0772968234561	MACOUPIN
Johnny Run				
258				
	start	41.2826709079541	-88.3633805819326	GRUNDY
	end	41.0807507198308	-88.5801638050665	LIVINGSTON
Jordan Creek				
266				
	start	41.3044458242397	-88.1279087273328	WILL
	end	41.3077177643453	-88.1188984685001	WILL
Judd Creek				
106				
	start	41.089645284216	-89.1847595119809	MARSHALL
	end	41.0429807674449	-89.1339049242164	MARSHALL
Kankakee River				
248				
	start	41.3923135096469	-88.2590124225285	GRUNDY
	end	41.1660752568715	-87.526360971907	KANKAKEE
Kickapoo Creek				
57				
	start	39.9932216924528	-88.8083252484687	MACON
	end	39.9987405799186	-88.8205170598483	MACON
65				
	start	40.1286520491088	-89.4532728967436	LOGAN
	end	40.4376592310728	-88.8667409562596	MCLEAN
92				

	start	40.6548826785105	-89.6134608723157	TAZEWELL
	end	40.9170471944911	-89.6577393908301	PEORIA
Kings Mill Creek				
83				
	start	40.4558745105979	-89.1642930044364	MCLEAN
	end	40.509184986927	-89.0937965002854	MCLEAN
La Harpe Creek				
159				
	start	40.4678428297867	-91.0424167497572	HANCOCK
	end	40.5172643895406	-90.9781701980636	HANCOCK
La Moine River				
158				
	start	40.3320849972693	-90.8997234923388	MCDONOUGH
	end	40.5923258750258	-91.0177293656635	HANCOCK
Lake Fork				
61				
	start	40.0837107988142	-89.3969397975165	LOGAN
	end	39.9367293000733	-89.2343282851812	LOGAN
Langan Creek				
254				
	start	40.9614905075375	-87.8149010739444	IROQUOIS
	end	40.9432018898477	-88.0465558527168	IROQUOIS
Lime Creek				
214				
	start	41.4515003790233	-89.5271752648714	BUREAU
	end	41.4951141474998	-89.456554884734	BUREAU
Little Indian Creek				
183				
	start	39.8355964564522	-90.1231971747256	MORGAN
	end	39.8658175367056	-90.0423591294145	MORGAN
227				

	start	41.5091299863247	-88.7725444056074	LA SALLE
	end	41.749433980972	-88.8141442269697	DE KALB
Little Kickapoo Creek				
67				
	start	40.3336625070255	-88.9736094275975	MCLEAN
	end	40.394785197415	-88.9473142490326	MCLEAN
Little Mackinaw River				
82				
	start	40.4423190352496	-89.4617848276975	TAZEWELL
	end	40.4481261917524	-89.4329939054056	TAZEWELL
Little Rock Creek				
274				
	start	41.6345548769785	-88.5384723455853	KENDALL
	end	41.7895688619816	-88.6981590581244	DE KALB
Little Sandy Creek				
107				
	start	41.0912632622075	-89.2247552498617	MARSHALL
	end	41.125352501365	-89.1758716886846	PUTNAM
Little Senachwine Creek				
99				
	start	40.9533145540839	-89.5292433956921	PEORIA
	end	41.0084439145565	-89.5499765139822	MARSHALL
Little Vermilion River				
233				
	start	41.3237602050852	-89.0811945323001	LA SALLE
	end	41.5760289435671	-89.0829047126545	LA SALLE
Lone Tree Creek				
418				
	start	40.3750682121535	-88.3819688457729	CHAMPAIGN
	end	40.3145980401842	-88.4738655755984	MCLEAN
Long Creek				

163				
	start	40.4466427913955	-91.0499607552846	HANCOCK
	end	40.4297652043359	-91.1507109600489	HANCOCK
Long Point Creek				
68				
	start	40.2755311999445	-89.0786438507327	DEWITT
	end	40.2549604211821	-88.9826285651361	DEWITT
394				
	start	41.038177645276	-88.7908409579793	LIVINGSTON
	end	41.0018214714974	-88.8534349418926	LIVINGSTON
Mackinaw River				
397				
	start	40.5796794158534	-89.2813445945626	TAZEWELL
	end	40.5649627479232	-88.478822725546	MCLEAN
Macoupin Creek				
32				
	start	39.1989703827155	-89.9609795725648	MACOUPIN
	start	39.2121253451487	-90.2312084410337	JERSEY
Madden Creek				
413				
	start	40.0943580002069	-88.5400649488702	PIATT
	end	40.2109635906658	-88.4943738561926	PIATT
Masters Creek				
220				
	start	41.4976109383336	-89.4125473607076	BUREAU
	end	41.5439000049343	-89.421988392756	BUREAU
Masters Fork				
217				
	start	41.4531024225454	-89.4290492805799	BUREAU
	end	41.5702310455498	-89.3821188149649	BUREAU
Mazon River				

257				
	start	41.3086768327676	-88.3389845675056	GRUNDY
	end	41.1872307009926	-88.2731640461448	GRUNDY
Mendota Creek				
234				
	start	41.5281666288805	-89.1041764154672	LA SALLE
	end	41.5282367334928	-89.1224368860589	LA SALLE
Middle Branch of Copperas Creek				
90				
	start	40.549514632509	-89.901189903351	FULTON
	end	40.5980896362772	-89.9368482699851	FULTON
Middle Creek				
165				
	start	40.3957329294144	-90.9741776721721	HANCOCK
	end	40.3888894030526	-91.0072502737366	HANCOCK
Mill Creek				
494				
	start	41.8213649020421	-88.3222376599138	KANE
	end	41.9231053361497	-88.4419826012614	KANE
Mole Creek				
390				
	start	41.0193910577853	-88.8019375580673	LIVINGSTON
	end	40.9109452909954	-88.9263176124884	LIVINGSTON
Morgan Creek				
272				
	start	41.6481172046369	-88.4151168308869	KENDALL
	end	41.6530911245692	-88.3631669287476	KENDALL
Mud Creek				
449				
	start	40.637099482441	-87.5885960450541	IROQUOIS
	end	40.6100172186722	-87.5261312404789	IROQUOIS

Mud Run

117

start	41.0092425694765	-89.7790957399812	STARK
end	40.9876287937001	-89.6785472090663	STARK

Murray Slough

259

start	41.2428845425989	-88.3615508333781	GRUNDY
end	41.054741775769	-88.5825975362008	LIVINGSTON

Nettle Creek

237

start	41.3559056532822	-88.4326806825019	GRUNDY
end	41.3989525138118	-88.5519708865374	GRUNDY

Nippersink Creek

285

start	42.403479031235	-88.1904263022916	LAKE
end	42.408321560969	-88.341299199739	MCHENRY

289

start	42.3885864249526	-88.3641081665149	MCHENRY
end	42.4692291197455	-88.4764236384547	MCHENRY

North Branch Crow Creek

103

start	40.9663161180876	-89.2558617294218	MARSHALL
end	41.0005549578781	-89.1943061363378	MARSHALL

North Branch Nippersink Creek

286

start	42.4376632559979	-88.2872504317539	MCHENRY
end	42.4945866793007	-88.3294075716268	MCHENRY

North Creek

119

start	40.9486975483619	-89.7633680090807	PEORIA
end	40.9421533616142	-89.7281078793964	PEORIA

North Fork Lake Fork

62

start	39.9367293000733	-89.2343282851812	LOGAN
end	40.0523211989442	-89.0999303242614	DEWITT

North Fork Salt Creek

71

start	40.2675598120912	-88.7867164044023	DEWITT
end	40.3620541452609	-88.7204600533309	MCLEAN

Otter Creek

171

start	40.2161621556914	-90.164317977292	FULTON
end	40.3182822717998	-90.3860609925548	FULTON

279

start	41.9619670384069	-88.3574449893747	KANE
end	41.9903303640688	-88.3568570687618	KANE

393

start	41.1611802253124	-88.8310854379729	LA SALLE
end	41.1541734588026	-88.7148550047115	LA SALLE

Panther Creek

178

start	40.0231674243157	-90.1158780774246	CASS
end	39.9411115612757	-90.0607356525317	CASS

405

start	40.6607941387838	-89.196034413193	WOODFORD
end	40.8483817762616	-89.0003562591212	WOODFORD

Paw Paw Run

231

start	41.6177945875792	-88.8847204360202	LA SALLE
end	41.6630271288718	-88.9144064528509	DE KALB

Pike Creek

216

	start	41.5121637096396	-89.3366888940457	BUREAU
	end	41.5707857354427	-89.2125163729316	BUREAU
388				
	start	40.8655185113965	-88.7090974772719	LIVINGSTON
	end	40.7989226101833	-88.7756316859923	LIVINGSTON
Pond Creek				
212				
	start	41.3494925800361	-89.5685244208084	BUREAU
	end	41.3541221673156	-89.6001721270724	BUREAU
Poplar Creek				
493				
	start	42.0127893042098	-88.2799278350546	KANE
	end	42.0604682884044	-88.151517184544	COOK
Prairie Creek				
69				
	start	40.2688606116755	-89.1209318708141	DEWITT
	end	40.3183618654781	-89.1150133167993	MCLEAN
79				
	start	40.1610672222447	-89.6159697428554	MASON
	end	40.3105388304102	-89.4819788351989	LOGAN
264				
	start	41.3410818305214	-88.1859963163497	WILL
	end	41.4048430210988	-87.9636949110551	WILL
391				
	start	41.0691920852358	-88.8106812576958	LIVINGSTON
	end	41.0162806406811	-89.0122375626521	LA SALLE
Prairie Creek Ditch				
81				
	start	40.242940205103	-89.5831738921535	LOGAN
	end	40.268603376062	-89.5902703680441	LOGAN
Prince Run				

118				
	start	40.9953442805941	-89.7634490486344	STARK
	end	40.9486975483619	-89.7633680090807	PEORIA
Rob Roy Creek				
495				
	start	41.6340658591268	-88.530902327864	KENDALL
	end	41.7208669225124	-88.4449822691918	KENDALL
Rock Creek				
180				
	start	39.9533586794244	-89.7717217346798	MENARD
	end	39.9192042890665	-89.881417605895	MENARD
251				
	start	41.2029705333006	-87.9860450524621	KANKAKEE
	end	41.2416733683013	-87.9199539652218	KANKAKEE
Rocky Run				
221				
	start	41.2966432755716	-89.5031050607007	BUREAU
	end	41.2892114895079	-89.5271301009319	BUREAU
Rooks Creek				
386				
	start	40.9620056243899	-88.737743684525	LIVINGSTON
	end	40.7615433072922	-88.6752675977812	LIVINGSTON
Salt Creek				
58				
	start	40.1286520491088	-89.4532728967436	LOGAN
	end	40.1404369482862	-88.8817439726269	DEWITT
409				
	start	40.2793653821328	-88.6019348286105	DEWITT
	end	40.3687232740908	-88.5787269955356	MCLEAN
Sandy Creek				
105				

	start	41.1083947129797	-89.3471796913242	PUTNAM
	end	41.0855613697751	-89.0792291942694	MARSHALL
Sangamon River				
408				
	start	40.0056362283258	-88.6286241506431	PIATT
	end	40.4223231153926	-88.67328493366	MCLEAN
Senachwine Creek				
96				
	start	40.929825860388	-89.4632928486271	PEORIA
	end	41.0900318754938	-89.5885134178247	MARSHALL
Short Creek				
162				
	start	40.4611057719393	-91.0582083107674	HANCOCK
	end	40.4682735975769	-91.0704506789577	HANCOCK
Short Point Creek				
389				
	start	40.9883827214271	-88.7830008925065	LIVINGSTON
	end	40.8951301673701	-88.8749997260932	LIVINGSTON
Silver Creek				
111				
	start	41.2185762138697	-89.6793069447094	STARK
	end	41.2431713087936	-89.6494927441058	BUREAU
South Branch Crow Creek				
104				
	start	40.9663161180876	-89.2558617294218	MARSHALL
	end	40.9410075148431	-89.1948285503851	MARSHALL
South Branch Forked Creek				
267				
	start	41.2631372965881	-88.0315238211836	WILL
	end	41.292604367733	-87.9621751169561	KANKAKEE
South Fork Lake Fork				

63				
	start	39.9367293000733	-89.2343282851812	LOGAN
	end	39.9674631778105	-89.0884701339793	MACON
South Fork Vermilion River				
395				
	start	40.7701181840118	-88.4858209632899	LIVINGSTON
	end	40.7234241258087	-88.355790853647	LIVINGSTON
Spoon River				
3				
	start	40.883272448156	-90.0994555125119	KNOX
	end	41.2158736312898	-89.6870256054763	STARK
Spring Creek				
161				
	start	40.5838583294631	-91.0397056763892	HANCOCK
	end	40.595079516268	-91.0572149428165	HANCOCK
166				
	start	40.4506930058171	-90.758703782814	MCDONOUGH
	end	40.5047702003096	-90.7202911238868	MCDONOUGH
223				
	start	41.3114342012759	-89.1969933188526	BUREAU
	end	41.5341774964794	-89.1599030581214	LA SALLE
Stevens Creek				
55				
	start	39.833172054334	-89.008501860042	MACON
	end	39.8725126750168	-88.9902570309468	MACON
Sugar Creek				
76				
	start	40.1505909949415	-89.6335239996087	MENARD
	end	40.3515916252906	-89.1626966142058	MCLEAN
124				
	start	40.9273148603695	-90.1168866799652	KNOX

	end	40.9407150872189	-90.126984172004	KNOX
448				
	start	40.7817769095357	-87.7532807121524	IROQUOIS
	end	40.650106664471	-87.5259225515566	IROQUOIS
Sutphens Run				
228				
	start	41.5813276727649	-88.9196815109252	LA SALLE
	end	41.5940767755281	-89.0434408697488	LA SALLE
Swab Run				
127				
	start	40.8043825531334	-90.0417502151246	KNOX
	end	40.8089204046364	-89.9959890937906	KNOX
Tenmile Creek				
64				
	start	40.1166122038468	-89.0605809659338	DEWITT
	end	40.1573804135529	-88.9870426654374	DEWITT
Timber Creek				
77				
	start	40.3499903738803	-89.1633832938062	MCLEAN
	end	40.3824906556377	-89.0653243216353	MCLEAN
Trim Creek				
249				
	start	41.1679695055755	-87.6275919071884	KANKAKEE
	end	41.3235679470585	-87.6273348723156	WILL
Turkey Creek				
172				
	start	40.5312633037562	-90.2784734138591	FULTON
	end	40.6100168551688	-90.1683886238592	FULTON
402				
	start	40.6346912128201	-88.8256051903746	MCLEAN
	end	40.6636296144043	-88.7848217949076	MCLEAN

Tyler Creek

283

start	42.057069434075	-88.2869209701875	KANE
end	42.0886074301339	-88.3939734393445	KANE

Unnamed Tributary

230

start	41.6008353940091	-88.9239309686064	LA SALLE
end	41.6393800996109	-88.95237726256	LEE

406

start	40.8483817762616	-89.0003562591212	WOODFORD
end	40.8446321845668	-88.9879480330159	WOODFORD

Unnamed Tributary of Big Bureau Creek

222

start	41.2923889187328	-89.4849627504116	BUREAU
end	41.2746773653832	-89.4967232161933	BUREAU

Unnamed Tributary of Coopers Defeat Creek

113

start	41.1485959333575	-89.6944246708098	STARK
end	41.1432423938169	-89.6549152326434	STARK

Unnamed Tributary of Dickerson Slough

422

start	40.4068214049304	-88.3388760698826	FORD
end	40.4286849455119	-88.3118606581845	FORD

Unnamed Tributary of Drummer Creek

425

start	40.430183509928	-88.3944923485681	FORD
end	40.4228198536222	-88.4420280012069	FORD

Unnamed Tributary of East Branch of Copperas Creek

89				
	start	40.59257130763	-89.8385498955685	PEORIA
	start	40.59257130763	-89.8385498955685	PEORIA
Unnamed Tributary of East Fork of Spoon River				
112				
	start	41.1911731339471	-89.6948993736812	STARK
	end	41.1958777466981	-89.6635132189552	STARK
Unnamed Tributary of Indian Creek				
185				
	start	39.8195431621523	-90.231206997871	MORGAN
	end	39.7997709298014	-90.2444898890822	MORGAN
229				
	start	41.5989641246871	-88.913295513256	LA SALLE
	end	41.6212302072922	-88.9971274321449	LA SALLE
Unnamed Tributary of Jackson Creek				
247				
	start	41.4328713295604	-88.0777949404827	WILL
	end	41.4181859202087	-88.0389954976751	WILL
Unnamed Tributary of Johnny Run				
261				
	start	41.1315090714299	-88.5704499691513	GRUNDY
	end	41.1211734141418	-88.5813177275807	GRUNDY
Unnamed Tributary of Kickapoo Creek				
66				
	start	40.4376592310728	-88.8667409562596	MCLEAN
	end	40.4499435649154	-88.7941853627565	MCLEAN
95				
	start	40.843847234267	-89.6598940056171	PEORIA
	end	40.8376970553513	-89.655765678658	PEORIA

Unnamed Tributary of Lone Tree Creek				
417				
	start	40.3145980401842	-88.4738655755984	MCLEAN
	end	40.3084681821929	-88.4721825603404	MCLEAN
419				
	start	40.3200878690807	-88.4758169784284	MCLEAN
	end	40.3246054213609	-88.502979969789	MCLEAN
420				
	start	40.3555955038811	-88.4486860730234	CHAMPAIGN
	end	40.3553786361326	-88.4890287857383	MCLEAN
Unnamed Tributary of Mackinaw River				
398				
	start	40.5649627479232	-88.478822725546	MCLEAN
	end	40.4956570103387	-88.5106552787079	MCLEAN
399				
	start	40.558742486097	-88.5447290418444	MCLEAN
	end	40.532461937187	-88.5550436512012	MCLEAN
400				
	start	40.5536214693649	-88.6155771894066	MCLEAN
	end	40.5386135050112	-88.6150100834316	MCLEAN
Unnamed Tributary of Masters Creek				
219				
	start	41.5407471962821	-89.4154110620948	BUREAU
	end	41.5452528261938	-89.4136798690744	BUREAU
Unnamed Tributary of Masters Fork				
218				
	start	41.510430587881	-89.3900507138719	BUREAU
	end	41.6181398940954	-89.2965280984998	LEE
Unnamed Tributary of Nettle Creek				

238				
	start	41.4088814108094	-88.5216683950888	GRUNDY
	end	41.4186133676397	-88.5339604493093	GRUNDY
Unnamed Tributary of Nippersink Creek				
255				
	start	42.4692291197455	-88.4764236384547	MCHENRY
	end	42.4695432978934	-88.5110499918451	MCHENRY
288				
	start	42.4176539163554	-88.3444740410368	MCHENRY
	end	42.4179067763647	-88.3502762821058	MCHENRY
290				
	start	42.3969278131381	-88.4109784072142	MCHENRY
	end	42.3875994074602	-88.4491666706176	MCHENRY
Unnamed Tributary of North Fork of Salt Creek				
72				
	start	40.3598944577027	-88.7302360564635	MCLEAN
	end	40.3817246400667	-88.7481607936989	MCLEAN
73				
	start	40.3620541452609	-88.7204600533309	MCLEAN
	end	40.3690272117515	-88.6961244618476	MCLEAN
75				
	start	40.2987649882463	-88.7603546124853	MCLEAN
	end	40.3051172967471	-88.7525145171727	MCLEAN
Unnamed Tributary of Panther Creek				
179				
	start	39.9411115612757	-90.0607356525317	CASS
	end	39.9350887523192	-90.047762075576	CASS
Unnamed Tributary of Pond Creek				
211				

	start	41.3541221673156	-89.6001721270724	BUREAU
	end	41.3352313411595	-89.5875580793812	BUREAU
Unnamed Tributary of Prairie Creek				
78				
	start	40.2086608970772	-89.6103029312127	MASON
	end	40.2239585519289	-89.638616348402	MASON
80				
	start	40.3105388304102	-89.4819788351989	LOGAN
	end	40.3114851545122	-89.4410508250634	LOGAN
Unnamed Tributary of Rooks Creek				
387				
	start	40.7615433072922	-88.6752675977812	LIVINGSTON
	end	40.7348742139519	-88.6985073106457	MCLEAN
Unnamed Tributary of Salt Creek				
412				
	start	40.3090617343957	-88.6002511568763	MCLEAN
	end	40.3165662374132	-88.6011454430269	MCLEAN
Unnamed Tributary of Sandy Creek				
108				
	start	41.0816545465891	-89.0921996326175	MARSHALL
	end	41.0690044849354	-89.0872784559417	MARSHALL
Unnamed Tributary of Sangamon River				
414				
	start	40.2187198550443	-88.3726776422252	CHAMPAIGN
	end	40.207759150969	-88.3556670563292	CHAMPAIGN
415				
	start	40.2618571248343	-88.3804307110291	CHAMPAIGN
	end	40.2604569179243	-88.4076966986332	CHAMPAIGN
Unnamed Tributary of Senachwine Creek				

97				
	start	41.0729094906046	-89.5194162172506	MARSHALL
	end	41.1005615839111	-89.5247542292286	MARSHALL
98				
	start	41.0008160428297	-89.5071527441621	MARSHALL
	end	41.0407981005047	-89.5430844273656	MARSHALL
Unnamed Tributary of Walnut Creek				
130				
	start	41.0811500581416	-90.0632765005186	KNOX
	end	41.0847653353348	-90.0680765817376	KNOX
132				
	start	41.0602585608831	-89.9869046205873	KNOX
	end	41.0721601609241	-89.9735120056073	STARK
133				
	start	41.0262443553352	-89.9515238620326	STARK
	end	41.0340788244836	-89.924721175772	STARK
Unnamed Tributary of West Bureau Creek				
215				
	start	41.4606455355906	-89.5251264675481	BUREAU
	end	41.4958522845312	-89.5472802493082	BUREAU
Unnamed Tributary of West Fork Sugar Creek				
85				
	start	40.3381506914873	-89.2954898975603	TAZEWELL
	end	40.3660114221746	-89.2448498120596	MCLEAN
86				
	start	40.3105145326502	-89.3291625265707	LOGAN
	end	40.3299182729366	-89.3779530037535	TAZEWELL
Valley Run				
241				
	start	41.4172036201222	-88.3955434158999	GRUNDY

	end	41.5039796750174	-88.5041976708714	KENDALL
Vermilion Creek				
235				
	start	41.4768291322914	-89.0571044195371	LA SALLE
	end	41.5338604103044	-89.0473804190906	LA SALLE
Vermilion River				
385				
	start	41.3202746199326	-89.067686548398	LA SALLE
	end	40.8817674383366	-88.6504671722722	LIVINGSTON
Walnut Creek				
128				
	start	40.9597510841493	-89.9769499175619	PEORIA
	end	41.12653217294	-90.2059192933585	KNOX
404				
	start	40.6253040823561	-89.239009045057	WOODFORD
	end	40.7670065190601	-89.3054156233977	WOODFORD
Waubonsie Creek				
273				
	start	41.6864691774875	-88.3543291766866	KENDALL
	end	41.727653072306	-88.2817226140407	KANE
Waupecan Creek				
262				
	start	41.3345412028515	-88.4648617458928	GRUNDY
	end	41.1880870688571	-88.5889392759762	LA SALLE
Welch Creek				
278				
	start	41.7390229211455	-88.5133300234389	KANE
	end	41.7542282081589	-88.4963865174814	KANE
West Branch Big Rock Creek				
276				
	start	41.7542830239271	-88.5621632556731	KANE

	end	41.791467372356	-88.6440656199133	DE KALB
West Branch Drummer Creek				
424				
	start	40.4348513301682	-88.3934764271309	FORD
	end	40.4490333768479	-88.4056995893214	FORD
West Branch Du Page River				
269				
	start	41.7019525201778	-88.1476209409341	WILL
	end	41.7799425869794	-88.1712650214772	DU PAGE
West Branch of Easterbrook Drain				
411				
	start	40.3633709579832	-88.5816306009141	MCLEAN
	end	40.3762064931712	-88.5843753634505	MCLEAN
West Branch of Horse Creek				
263				
	start	41.2492485076225	-88.1312055809841	WILL
	end	41.0019131557324	-88.1364114459172	KANKAKEE
West Branch of Lamarsh Creek				
91				
	start	40.5615978513207	-89.6991824445749	PEORIA
	end	40.640281675188	-89.7388615248892	PEORIA
West Branch Panther Creek				
407				
	start	40.7528335084236	-89.1030067348099	WOODFORD
	end	40.7954060105963	-89.1900600098668	WOODFORD
West Bureau Creek				
213				
	start	41.3209910742583	-89.5195916727401	BUREAU
	end	41.478267808168	-89.5152211006131	BUREAU
West Fork Mazon River				

260

start	41.2530670781541	-88.3508667933585	GRUNDY
end	41.0302502359071	-88.5226194555857	LIVINGSTON

West Fork Salt Creek

74

start	40.317360196629	-88.7559599297755	MCLEAN
end	40.3372561693307	-88.8039670869984	MCLEAN

West Fork Sugar Creek

84

start	40.2844404292499	-89.332075650855	LOGAN
end	40.4558745105979	-89.1642930044364	MCLEAN

Wolf Creek

497

start	41.1540042913791	-88.8612912917747	LA SALLE
end	41.1611802253124	-88.8310854379729	LA SALLE

Kaskaskia

Bearcat Creek

37

start	39.0121682814832	-89.5317265036074	BOND
end	39.0568357269204	-89.4889786056249	MONTGOMERY

Becks Creek

45

start	39.1565938305703	-88.9491156388975	FAYETTE
end	39.3602481794208	-89.0227919838743	SHELBY

Brush Creek

39

start	39.1385354787129	-89.5805305687638	MONTGOMERY
end	39.1539913389194	-89.561368040102	MONTGOMERY

Cress Creek

41

	start	39.1652709439739	-89.5012992382647	MONTGOMERY
	end	39.1962551507602	-89.5131844155481	MONTGOMERY
Dry Fork				
43				
	start	39.036113738887	-89.2488135289512	FAYETTE
	end	39.1033131262537	-89.2984242244004	MONTGOMERY
East Fork Shoal Creek				
23				
	start	38.8310032253066	-89.4990300331039	BOND
	end	38.9226451880864	-89.4117554251748	BOND
Gerhardt Creek				
27				
	start	38.3445550793694	-90.0600653224456	ST. CLAIR
	end	38.367857922464	-90.0997565611344	MONROE
Hurricane Creek				
42				
	start	38.9180334233238	-89.2472989134191	FAYETTE
	end	39.2167946546678	-89.2767284135051	MONTGOMERY
Loop Creek				
21				
	start	38.4738791704891	-89.8286629587977	ST. CLAIR
	end	38.4996759642082	-89.9058988238884	ST. CLAIR
Middle Fork Shoal Creek				
40				
	start	39.0848984732588	-89.5438724131899	MONTGOMERY
	end	39.1868483992515	-89.4798528829252	MONTGOMERY
Mitchell Creek				
48				
	start	39.1565938305703	-88.9491156388975	FAYETTE
	end	39.3191569074355	-88.9291931738519	SHELBY
Mud Creek				

51				
	start	39.4078984061571	-88.8964126852371	SHELBY
	end	39.4786612118046	-88.9523280946578	SHELBY
Ninemile Creek				
30				
	start	38.0441291788376	-89.9112042263573	RANDOLPH
	end	38.0507383485977	-89.8278402421236	RANDOLPH
Opossum Creek				
46				
	start	39.2718719283603	-89.006345202583	SHELBY
	end	39.2833737967471	-89.0555186821259	SHELBY
Prairie du Long Creek				
24				
	start	38.2583950460692	-89.9674114204896	MONROE
	end	38.3425597902873	-90.0517323138269	ST. CLAIR
Robinson Creek				
50				
	start	39.3519556417502	-88.8434641389225	SHELBY
	end	39.5215530679793	-88.8331635597113	SHELBY
Rockhouse Creek				
25				
	start	38.279441694169	-90.0367398173562	MONROE
	end	38.2999005789932	-90.1039357731424	MONROE
Section Creek				
49				
	start	39.1835497280833	-88.9455894742885	FAYETTE
	end	39.1959160048126	-88.961892707007	FAYETTE
Shoal Creek				
22				
	start	38.4831106563982	-89.5775456200079	WASHINGTON
	end	38.5557239981111	-89.4968640710432	CLINTON

36				
	start	38.8310032008922	-89.4990300493802	BOND
	end	39.0848755752581	-89.5439018081354	MONTGOMERY
Silver Creek				
20				
	start	38.3369025707936	-89.8753691916515	ST. CLAIR
	end	38.5568068204478	-89.8305698867169	ST. CLAIR
Stringtown Branch				
53				
	start	39.7138824796477	-88.6677549810426	MOULTRIE
	end	39.7363136714592	-88.6944718913546	MOULTRIE
Unnamed Tributary of Gerhardt Creek				
26				
	start	38.367857922464	-90.0997565611344	MONROE
	end	38.3742880966457	-90.1107074126403	MONROE
Unnamed Tributary of Okaw River				
54				
	start	39.734248747064	-88.6620801587617	MOULTRIE
	end	39.80990395294	-88.6969360645412	PIATT
Walters Creek				
28				
	start	38.3425597902873	-90.0517323138269	ST. CLAIR
	end	38.3445550793694	-90.0600653224456	ST. CLAIR
West Fork Shoal Creek				
38				
	start	39.1385354787129	-89.5805305687638	MONTGOMERY
	end	39.1877434015581	-89.6041666305308	MONTGOMERY
West Okaw River				
52				
	start	39.6158126349278	-88.7105522558061	MOULTRIE

end	39.7564321977535	-88.630211952428	MOULTRIE

Mississippi River

Apple River

372

start	42.3210892387922	-90.2520915343109	JO DAVIESS
end	42.5078007598632	-90.1320538371008	JO DAVIESS

Bear Creek

199

start	40.1421908412793	-91.322057103417	ADAMS
end	40.3507607406412	-91.1831593883194	HANCOCK

Bigneck Creek

205

start	40.1189668648562	-91.2247381726013	ADAMS
end	40.118891177483	-91.1409739765636	ADAMS

Burton Creek

192

start	39.8643091712617	-91.343323220756	ADAMS
end	39.92393403238	-91.2381482737218	ADAMS

Camp Creek

140

start	41.2607621817314	-90.514303172809	MERCER
end	41.3114464274682	-90.2476056448033	HENRY

142

start	41.2202380211465	-90.895164796358	MERCER
end	41.2787933006746	-90.6950345992843	MERCER

Carroll Creek

349

start	42.1027782814517	-90.0265311556732	CARROLL
end	42.0906369943302	-89.8985337135691	CARROLL

Clear Creek

6				
	start	37.4821139304798	-89.377768200259	UNION
	end	37.5377402977406	-89.331689550578	UNION
381				
	start	42.4468385101031	-90.0472460146999	JO DAVIESS
	end	42.4780763391708	-90.035127804618	JO DAVIESS
Coon Creek				
376				
	start	42.4035528739642	-90.1272819897867	JO DAVIESS
	end	42.4347098804951	-90.1169407822902	JO DAVIESS
Copperas Creek				
148				
	start	41.3717279574558	-90.901871458269	ROCK ISLAND
	end	41.3616090539824	-90.7468725613692	ROCK ISLAND
Deep Run				
155				
	start	40.7779166934519	-90.9639489255706	HENDERSON
	end	40.794076798068	-90.9474772904134	HENDERSON
Dixson Creek				
154				
	start	40.7684181600505	-90.9376123103323	HENDERSON
	end	40.7650613473293	-90.9262679175808	HENDERSON
Dutch Creek				
4				
	start	37.4593003249666	-89.3688365937935	UNION
	end	37.4147572383786	-89.2744790735331	UNION
East Fork Galena River				
383				
	start	42.450241615252	-90.3876497193745	JO DAVIESS
	end	42.4876693698893	-90.286894403861	JO DAVIESS
Edwards River				

145				
	start	41.1459068953479	-90.9832855425151	MERCER
	end	41.2835429634312	-90.1022166001482	HENRY
Eliza Creek				
146				
	start	41.2754465656779	-90.9740195834639	MERCER
	end	41.2948140261561	-90.8870757880317	MERCER
Ellison Creek				
153				
	start	40.7615810139869	-91.0723400800456	HENDERSON
	end	40.7295594797542	-90.7480413061409	WARREN
Galena River				
382				
	start	42.450241615252	-90.3876497193745	JO DAVIESS
	end	42.5068721036534	-90.390459616835	JO DAVIESS
Green Creek				
5				
	start	37.4514943718452	-89.3379244013686	UNION
	end	37.4666314694209	-89.3048476846202	UNION
Hadley Creek				
188				
	start	39.7025380326419	-91.1396851101986	PIKE
	end	39.7351716794518	-90.9664567571417	PIKE
Hells Branch				
378				
	start	42.3582317355027	-90.185076448587	JO DAVIESS
	end	42.4166702490621	-90.1660286242329	JO DAVIESS
Henderson Creek				
134				
	start	41.0518601460692	-90.652709618504	WARREN
	end	41.0728998007979	-90.3331881878676	KNOX

150				
	start	40.8788582366336	-90.9641994146698	HENDERSON
	end	40.989888583038	-90.8698875032336	HENDERSON
Hillery Creek				
144				
	start	41.2699394405307	-90.2020116075301	HENRY
	end	41.2553101029329	-90.1954503442612	HENRY
Honey Creek				
157				
	start	40.7000823335975	-91.0347691132118	HENDERSON
	end	40.7064734203141	-90.8589436695132	HENDERSON
186				
	start	39.4871465283426	-90.7799240715991	PIKE
	end	39.5633421986505	-90.8011460205638	PIKE
207				
	start	40.1052246871151	-91.2149469620062	ADAMS
	end	40.0689996865178	-91.2253825583113	ADAMS
Hutchins Creek				
7				
	start	37.5043385818368	-89.3755380391598	UNION
	end	37.58788138261	-89.3917584202331	UNION
Little Bear Creek				
194				
	start	40.3213003292038	-91.2390256840921	HANCOCK
	end	40.302753021887	-91.3102530307924	HANCOCK
Little Creek				
200				
	start	40.1807360433073	-91.2803860136891	ADAMS
	end	40.230127123031	-91.3051461065984	HANCOCK
McCraney Creek				
189				

	start	39.7167396162723	-91.1729844320811	PIKE
	end	39.8572624790589	-91.0907175471865	ADAMS
Mill Creek				
191				
	start	39.8643091712617	-91.343323220756	ADAMS
	end	39.9675786362521	-91.2477003180771	ADAMS
377				
	start	42.3539782358808	-90.1879698650198	JO DAVIESS
	end	42.4518923573772	-90.2485882677025	JO DAVIESS
496				
	start	38.9472270910927	-90.2956721236088	JERSEY
	end	38.9871246152411	-90.3431576290565	JERSEY
Mississippi River				
2				
	end	37.1887629940337	-89.4576720472899	ALEXANDER
29				
	start	38.8664117755941	-90.1477786925267	MADISON
	end	38.327795025976	-90.3709302644266	MONROE
384				
	start	42.5079432477656	-90.6430378486115	JO DAVIESS
	end	41.5746193723759	-90.392321397091	ROCK ISLAND
440				
	start	39.326689248302	-90.8243988873681	CALHOUN
	end	39.8935238218567	-91.4437639810547	ADAMS
Mud Creek				
202				
	start	40.1812148450863	-91.2785060826782	ADAMS
	end	40.1852755387137	-91.2660018265735	ADAMS
Nichols Run				
156				
	start	40.7735451176215	-90.9672827833242	HENDERSON

	end	40.7648298879037	-90.9675416302885	HENDERSON
North Henderson Creek				
136				
	start	41.0973619647032	-90.7191141378965	MERCER
	end	41.119743833988	-90.4494190524502	MERCER
Parker Run				
141				
	start	41.2623500459087	-90.4891341819923	MERCER
	end	41.2260011828886	-90.4145431241447	HENRY
Pigeon Creek				
190				
	start	39.7143204171354	-91.2372670411405	PIKE
	end	39.8220301600964	-91.2087922935523	ADAMS
Pope Creek				
137				
	start	41.1401437091914	-90.8116816399802	MERCER
	end	41.1394137238591	-90.2877112230995	KNOX
Sixmile Creek				
187				
	start	39.4592604039597	-90.8902507134236	PIKE
	end	39.5431657559583	-90.8891598316201	PIKE
Slater Creek				
198				
	start	40.291601584329	-91.2423526162923	HANCOCK
	end	40.2822885732908	-91.2189777154329	HANCOCK
Smith Creek				
152				
	start	40.9297989285848	-90.9146232873076	HENDERSON
	end	40.9291958384872	-90.7919464822621	HENDERSON
South Edwards River				
139				

	start	41.2656645104853	-90.2611866223557	HENRY
	end	41.1927071399434	-90.0393078982573	HENRY
South Fork Apple River				
380				
	start	42.4468385101031	-90.0472460146999	JO DAVIESS
	end	42.4176188464167	-89.9845802036023	JO DAVIESS
South Fork Bear Creek				
203				
	start	40.1677973436879	-91.2933473698779	ADAMS
	end	40.0950329934447	-91.0607522810856	ADAMS
South Henderson Creek				
135				
	start	41.0188478643653	-90.4811337762604	WARREN
	end	41.0121123609019	-90.4338464913801	KNOX
151				
	start	40.8788582366336	-90.9641994146698	HENDERSON
	end	40.8534764362853	-90.8707263659685	HENDERSON
Straddle Creek				
301				
	start	42.0906369943302	-89.8985337135691	CARROLL
	end	42.1316680929413	-89.783599495409	CARROLL
Thurman Creek				
204				
	start	40.1277667094818	-91.234525810555	ADAMS
	end	40.1580795200863	-91.1501036788115	ADAMS
Tournear Creek				
193				
	start	39.9042285951329	-91.2447718289928	ADAMS
	end	39.8738503674823	-91.1658282439773	ADAMS
Unnamed Tributary of Apple River				
375				

	start	42.3613497834653	-90.1603277978963	JO DAVIESS
	end	42.3651703478401	-90.1182227692179	JO DA VIESS
Unnamed Tributary of Bear Creek				
197				
	start	40.3187160045841	-91.2379753573306	HANCOCK
	end	40.3220475782343	-91.2218711128768	HANCOCK
201				
	start	40.2483484763178	-91.2634157983708	HANCOCK
	end	40.2576281291385	-91.2420554576986	HANCOCK
Unnamed Tributary of Copperas Creek				
149				
	start	41.3759130587612	-90.8569366994939	ROCK ISLAND
	end	41.3735944469795	-90.829794872711	ROCK ISLAND
Unnamed Tributary of Furnace Creek				
373				
	start	42.3419228115146	-90.2583358633166	JO DAVIESS
	end	42.3737126096251	-90.2971522307335	JO DAVIESS
374				
	start	42.3419228115146	-90.2583358633166	JO DAVIESS
	end	42.3615209718591	-90.24931703774	JO DAVIESS
Unnamed Tributary of South Edwards River				
143				
	start	41.2011516193172	-90.1850818577344	HENRY
	end	41.1943841818099	-90.1839265246101	HENRY
Unnamed Tributary of South Fork of Bear Creek				
206				
	start	40.0797919556019	-91.1461193615862	ADAMS
	end	40.0587441356106	-91.1467388825794	ADAMS
West Fork of Apple River				

379				
	start	42.4777531846594	-90.1103501186504	JO DAVIESS
	end	42.4739843218597	-90.1321517307332	JO DAVIESS
West Fork of Bear Creek				
195				
	start	40.3385207135212	-91.2203393068898	HANCOCK
	end	40.3592824400704	-91.2334357995319	HANCOCK
Yankee Branch				
147				
	start	41.2850778212191	-90.9379823025264	MERCER
	end	41.2926277702981	-90.9335620769218	MERCER

Ohio

Big Creek				
16				
	start	37.4366764302436	-88.3127424957005	HARDIN
	end	37.5591274535694	-88.3148730216063	HARDIN
Big Grand Pierre Creek				
13				
	start	37.4163002207384	-88.4338876873615	POPE
	end	37.5702304746463	-88.4292613661871	POPE
Hayes Creek				
10				
	start	37.4452331751972	-88.7114120959417	JOHNSON
	end	37.4559134065693	-88.6286228702431	POPE
Hicks Branch				
14				
	start	37.5432903813926	-88.4245265989312	POPE
	end	37.5391971894773	-88.4135144509885	HARDIN
Little Lusk Creek				
12				

	start	37.4991426291527	-88.5277357332102	POPE
	end	37.5247950767618	-88.5017934865946	POPE
Little Saline River				
9				
	start	37.6429893859023	-88.6229273282692	SALINE
	end	37.5783125058777	-88.7169929932876	JOHNSON
Lusk Creek				
11				
	start	37.3685952948804	-88.4926140087969	POPE
	end	37.5649232438096	-88.5644984122843	POPE
Mississippi River				
2				
	start	36.9810279805712	-89.1311552055554	ALEXANDER
Ohio River				
1				
	start	36.9810279805712	-89.1311552055554	ALEXANDER
	end	37.7995447392016	-88.0255709974801	GALLATIN
Simmons Creek				
15				
	start	37.4274681380208	-88.4392381154217	POPE
	end	37.4644921054999	-88.4850750109356	POPE
South Fork Saline River				
8				
	start	37.6372646144582	-88.6447143188352	SALINE
	end	37.6650992000287	-88.7471054185807	WILLIAMSON
Unnamed Tributary of Big Creek				
18				
	start	37.4816237108967	-88.3412279259479	HARDIN
	end	37.4836843600581	-88.3434390004066	HARDIN
Wabash River				
488				

start	37.7995447392016	-88.0255709974801	GALLATIN

Rock

Beach Creek

302

start	41.8989215290323	-89.121081932608	OGLE
end	41.8637759544565	-89.185844184387	LEE

Beaver Creek

322

start	42.2551087433884	-88.9247700103803	BOONE
end	42.4341346635117	-88.7603784300954	BOONE

Black Walnut Creek

341

start	42.1132080942552	-89.2141520188153	OGLE
end	42.061557908797	-89.2316600156935	OGLE

Brown Creek

335

start	42.3568412672282	-89.4493817584574	STEPHENSON
end	42.3697340053709	-89.4802304815634	STEPHENSON

Buffalo Creek

358

start	41.9242552302868	-89.6809355972221	WHITESIDE
end	41.9752373833258	-89.6243677263482	OGLE

Cedar Creek

337

start	42.3709196286357	-89.670256711355	STEPHENSON
end	42.3896058186609	-89.5870343171161	STEPHENSON

Coal Creek

208

start	41.3941767873198	-89.8287586795479	BUREAU
end	41.2930847238959	-89.6659810678663	BUREAU

Coon Creek

304

start	42.0365871032824	-89.489365571257	OGLE
end	42.0550520228278	-89.4762995939105	OGLE

326

start	42.254519734978	-88.7945563884938	BOONE
end	42.1336677087989	-88.6039205825106	DE KALB

Crane Grove Creek

371

start	42.2656461748962	-89.6058461735176	STEPHENSON
end	42.2317224844045	-89.5804359629382	STEPHENSON

Deer Creek

307

start	42.1046195671697	-88.7267155451459	DE KALB
end	42.1076541965304	-88.6684575625598	DE KALB

Dry Creek

332

start	42.4322162336943	-89.0509181181504	WINNEBAGO
end	42.4892211712754	-88.9789486331688	WINNEBAGO

East Branch South Branch of Kishwaukee River

306

start	42.0108038948242	-88.7236807475971	DE KALB
end	41.9822037358546	-88.5449399063616	KANE

East Fork Mill Creek

343

start	42.1402053009442	-89.2945061380348	OGLE
end	42.1744627607887	-89.268245093523	OGLE

Elkhorn Creek

350

start	41.8392614813286	-89.6956810578758	WHITESIDE
end	42.0864514128748	-89.636841111792	OGLE

Franklin Creek

303

start	41.8885909580789	-89.4120344682789	OGLE
end	41.830393186845	-89.3092915487959	LEE

Goose Creek

356

start	41.9282951879448	-89.692114617634	WHITESIDE
end	41.9476422569681	-89.6849104470831	OGLE

Green River

359

start	41.6266589513433	-89.5688644755145	LEE
end	41.8177589430141	-89.1263088319088	LEE

Kilbuck Creek

312

start	42.1838622639314	-89.1301689015062	WINNEBAGO
end	41.9181917577798	-88.9212387567239	DE KALB

Kingsbury Creek

311

start	42.1077794424363	-88.8726630666396	DE KALB
end	42.1579325310556	-88.8548684690422	BOONE

Kishwaukee River

318

start	42.1866384939252	-89.1320796977525	WINNEBAGO
end	42.2666635150817	-88.5250450377336	MCHENRY

Kyte River

295

start	41.9881250432719	-89.3232327202272	OGLE
end	41.9206998470585	-89.0576692414087	OGLE

Leaf River

345

start	42.093677393629	-89.3249228482157	OGLE

	end	42.1545774626081	-89.5725820219443	OGLE
Lost Creek				
368				
	start	42.245723132043	-89.7807765552299	STEPHENSON
	end	42.2314500223394	-89.7709518073782	STEPHENSON
Middle Creek				
344				
	start	42.1559584011258	-89.2911997709031	OGLE
	end	42.1737499306461	-89.2931763612625	OGLE
Mill Creek				
342				
	start	42.1206847838382	-89.2792143996076	OGLE
	end	42.2092574596508	-89.3358557551327	WINNEBAGO
Mosquito Creek				
323				
	start	42.3066628798583	-88.9047855300292	BOONE
	end	42.3100003482313	-88.9099328193755	BOONE
327				
	start	42.246521748985	-88.7802719043895	BOONE
	end	42.1906300595167	-88.7849304281662	BOONE
Mud Creek				
325				
	start	42.2592878387497	-88.7503449689069	BOONE
	end	42.2805097009077	-88.7381130663589	BOONE
346				
	start	42.1301628959448	-89.4043328758949	OGLE
	end	42.1639762007661	-89.4554911246235	OGLE
North Branch Kishwaukee River				
320				
	start	42.2655855837644	-88.5514660318739	MCHENRY
	end	42.4163330454161	-88.5232715616737	MCHENRY

North Branch Otter Creek

292

start	42.4412940471901	-89.3074016078782	WINNEBAGO
end	42.4570625094589	-89.356265092275	WINNEBAGO

North Fork Kent Creek

333

start	42.2621663352674	-89.0944316410734	WINNEBAGO
end	42.310438304708	-89.1651357273603	WINNEBAGO

Otter Creek

291

start	42.4565457866811	-89.2410171137247	WINNEBAGO
end	42.4412940471901	-89.3074016078782	WINNEBAGO

348

start	42.1345277930786	-89.411492883497	OGLE
end	42.1911608097275	-89.4222625773931	OGLE

Owens Creek

310

start	42.1012605056104	-88.8850996053184	DE KALB
end	41.994362186304	-88.8506687869106	DE KALB

Pine Creek

305

start	41.9113031895505	-89.452879176459	OGLE
end	42.0376146514025	-89.4909007464322	OGLE

Piscasaw Creek

324

start	42.2618063936707	-88.8176068924198	BOONE
end	42.3916885547221	-88.7041339551642	MCHENRY

Raccoon Creek

328

start	42.4479288873423	-89.098286193015	WINNEBAGO
end	42.4829761640917	-89.1400856130022	WINNEBAGO

Reid Creek

353

start	41.8644109921615	-89.5919014348703	LEE
end	41.9135187969506	-89.5728723309406	OGLE

Richland Creek

336

start	42.3456275295301	-89.6832413426115	STEPHENSON
end	42.5047442687577	-89.6477619118761	STEPHENSON

Rock River

294

start	41.9881250432719	-89.3232327202272	OGLE
end	42.4962174640048	-89.0418910839077	WINNEBAGO

Rock Run

490

start	42.3211872463585	-89.4237342452712	STEPHENSON
end	42.4281098959774	-89.4483616268915	STEPHENSON

Rush Creek

321

start	42.2560676137827	-88.7031592940742	MCHENRY
end	42.4031741332744	-88.5930626223964	MCHENRY

Silver Creek

338

start	42.0611717976691	-89.335901928201	OGLE
end	42.0866765435436	-89.3839889015445	OGLE

Skunk Creek

354

start	41.8794703976699	-89.7072621672884	WHITESIDE
end	41.897582187238	-89.7290746844729	WHITESIDE

South Branch Kishwaukee River

308

start	42.2001609257306	-88.9840657029051	WINNEBAGO

	end	41.9015798699947	-88.7706697182685	DE KALB
315				
	start	42.2627093767756	-88.5609522875415	MCHENRY
	end	42.1066209842679	-88.4620443477841	KANE
South Branch of Otter Creek				
280				
	start	42.4412940471901	-89.3074016078782	WINNEBAGO
	end	42.4343122756071	-89.3600650183381	WINNEBAGO
South Fork of Leaf River				
347				
	start	42.1296104494647	-89.4546456401589	OGLE
	end	42.1085718337046	-89.5037134270228	OGLE
South Kinnikinnick Creek				
330				
	start	42.419961259532	-89.018119476068	WINNEBAGO
	end	42.4190921988888	-88.8710507717794	BOONE
Spring Creek				
339				
	start	42.0709215390383	-89.325546679708	OGLE
	end	42.0590157098796	-89.3110803788049	OGLE
Spring Run				
313				
	start	42.0402370001041	-89.0065478421579	OGLE
	end	42.0507770466662	-88.9858854279893	OGLE
Steward Creek				
297				
	start	41.8903673258897	-89.1021064698423	OGLE
	end	41.8259979751563	-88.9624738458404	LEE
Stillman Creek				
340				
	start	42.1259475370515	-89.2319193482332	OGLE

	end	42.0372051268587	-89.1542573242497	OGLE
Sugar Creek				
352				
	start	41.8392614813286	-89.6956810578758	WHITESIDE
	end	41.8644109921615	-89.5919014348703	LEE
Sugar River				
293				
	start	42.4357992567436	-89.1971727593158	WINNEBAGO
	end	42.4982890047043	-89.2624235677856	WINNEBAGO
Sumner Creek				
334				
	start	42.3227762010459	-89.3830042631004	WINNEBAGO
	end	42.25195988987	-89.3997975146614	STEPHENSON
Turtle Creek				
329				
	start	42.4929910323531	-89.0439958173493	WINNEBAGO
	end	42.4961371053418	-89.0246519221989	WINNEBAGO
Unnamed Tributary				
361				
	start	41.6608316904842	-89.4728200038511	LEE
	end	41.6425311558513	-89.4137140926471	LEE
365				
	start	41.7443681625006	-89.168951821186	LEE
	end	41.738182745458	-89.1042187039322	LEE
492				
	start	42.1246069284208	-88.5882544654343	DE KALB
	end	42.1028295788327	-88.5105326912596	KANE
Unnamed Tributary of Buffalo Creek				
357				
	start	41.9332348110612	-89.6342816030603	OGLE
	end	41.93890647032	-89.6092042883405	OGLE

Unnamed Tributary of Coon Creek				
282				
	start	42.1336677087989	-88.6039205825106	DE KALB
	end	42.0754334787177	-88.5442273447775	KANE
491				
	start	42.150113155436	-88.6091713292612	DE KALB
	end	42.1691790844289	-88.5070973943593	MCHENRY
Unnamed Tributary of Elkhorn Creek				
355				
	start	41.9378871254405	-89.7318712136894	CARROLL
	end	41.9525180771018	-89.7332762139612	CARROLL
Unnamed Tributary of Green River				
360				
	start	41.8177589430141	-89.1263088319088	LEE
	end	41.8012094828667	-89.0296681468724	LEE
362				
	start	41.66455888603	-89.4729486542104	LEE
	end	41.650155479351	-89.4398464027055	LEE
364				
	start	41.750735979575	-89.2189268880904	LEE
	end	41.7278383993539	-89.1577958588247	LEE
366				
	start	41.7304138832457	-89.2547363744761	LEE
	end	41.7421804770435	-89.2683034846455	LEE
367				
	start	41.7336722733557	-89.2459381167869	LEE
	end	41.6996843512729	-89.2025409068097	LEE
489				
	start	41.7765356433433	-89.1781811586274	LEE
	end	41.791148742648	-89.1782543204659	LEE

Unnamed Tributary of Kyte River

298

start	41.969037423435	-89.2727932207785	OGLE
end	41.9423468128644	-89.2676252361535	OGLE

299

start	41.9474122868214	-89.1742920304606	OGLE
end	41.9511979792854	-89.1378721025283	OGLE

Unnamed Tributary of North Branch Kishwaukee River

319

start	42.4163330454161	-88.5232715616737	MCHENRY
end	42.4218523642031	-88.5063783493938	MCHENRY

Unnamed Tributary of Rock River

331

start	42.3730089457359	-89.0581319432428	WINNEBAGO
end	42.382841503485	-89.0950184603254	WINNEBAGO

Unnamed Tributary of South Branch Kishwaukee River

309

start	42.1219922946716	-88.9236557341498	DE KALB
end	42.1138208388943	-88.9372243118963	DE KALB

316

start	42.1565644453666	-88.4449935784875	MCHENRY
end	42.1594149792506	-88.4178533576301	MCHENRY

317

start	42.234010247227	-88.5199093723576	MCHENRY
end	42.2225793216803	-88.5259266256801	MCHENRY

Unnamed Tributary of Spring Run

314

start	42.0401565844742	-88.9948863767949	OGLE

	end	42.0116835703089	-88.9710672286801	OGLE
Unnamed Tributary of Steward Creek				
296				
	start	41.8444592840822	-89.0070046248547	LEE
	end	41.8601589546913	-88.9714244440014	LEE
300				
	start	41.871719116543	-89.069434926448	LEE
	end	41.8792477545579	-89.037635229652	LEE
Unnamed Tributary of Yellow Creek				
369				
	start	42.3067615221991	-89.8535571166391	STEPHENSON
	end	42.3493669268537	-89.8275355259147	STEPHENSON
West Fork Elkhorn Creek				
351				
	start	42.0864514128748	-89.636841111792	OGLE
	end	42.0924853439498	-89.6474944357754	OGLE
Willow Creek				
363				
	start	41.7653209616214	-89.1943294683724	LEE
	end	41.7141851660088	-89.032161004274	LEE
Yellow Creek				
370				
	start	42.2899156684427	-89.5696276563017	STEPHENSON
	end	42.3796215769162	-89.9350879560031	JO DAVIESS

Wabash

Bean Creek				
437				
	start	40.2950579779894	-87.7823902126108	VERMILION
	end	40.3344744135429	-87.7494458762005	VERMILION

Big Creek

457

start	39.3351439545995	-87.5878012286214	CLARK
start	39.436126036547	-87.7023848396263	CLARK

Bluegrass Creek

436

start	40.301292752824	-87.7969361668719	VERMILION
end	40.381268589802	-87.8562389558508	VERMILION

Brouilletts Creek

450

start	39.7057649552945	-87.5509615193818	EDGAR
end	39.797449971524	-87.7178559181463	EDGAR

Brush Creek

468

start	38.993072718826	-88.1273817532169	JASPER
end	38.9675510537677	-88.1471375817992	JASPER

Brushy Fork

484

start	39.7161188745587	-88.0853294840712	DOUGLAS
end	39.8111289403664	-87.8839288887749	EDGAR

Buck Creek

435

start	40.3115126234324	-87.9255710854089	VERMILION
end	40.2862675329103	-87.9704593374522	CHAMPAIGN

Cassell Creek

473

start	39.4866434423672	-88.2094970436354	COLES
end	39.4909698054293	-88.207848854172	COLES

Catfish Creek

477

start	39.680891264864	-87.9341744320393	EDGAR

	end	39.6581354970801	-87.8937116601235	EDGAR
Clark Branch				
483				
	start	39.8111289403664	-87.8839288887749	EDGAR
	end	39.8226610039489	-87.8513747624001	EDGAR
Collison Branch				
439				
	start	40.2351860050982	-87.7725365689525	VERMILION
	end	40.2197161120333	-87.803155121171	VERMILION
Cottonwood Creek				
469				
	start	39.2033657707304	-88.2765033266093	CUMBERLAND
	end	39.3142137713574	-88.229342077034	CUMBERLAND
Crabapple Creek				
452				
	start	39.7057649552945	-87.5509615193818	EDGAR
	end	39.8065708276187	-87.6467768455628	EDGAR
Crooked Creek				
465				
	start	38.9817031629594	-88.066438923761	JASPER
	end	39.0356467346919	-88.0923368283887	JASPER
Deer Creek				
485				
	start	39.7053403128076	-88.0850387247647	DOUGLAS
	end	39.7025679945443	-88.2058470030399	DOUGLAS
Donica Creek				
479				
	start	39.6453315324326	-87.9892294370803	COLES
	end	39.6172623271272	-87.9782640861296	COLES
Dudley Branch				
475				

	start	39.5115642227627	-88.0564563693231	COLES
	end	39.5068188298145	-88.043669581567	COLES
East Crooked Creek				
287				
	start	39.0356467346919	-88.0923368283887	JASPER
	end	39.1659729856615	-88.0610310241876	JASPER
East Fork Big Creek				
458				
	start	39.436126036547	-87.7023848396263	CLARK
	end	39.5471103780713	-87.760040304497	EDGAR
Embarras River				
460				
	start	38.9148628762488	-87.9834798036322	JASPER
	end	39.7161188745587	-88.0853294840712	DOUGLAS
Feather Creek				
432				
	start	40.1172818042134	-87.8342855159987	VERMILION
	end	40.1416543211304	-87.8399367268356	VERMILION
Greasy Creek				
480				
	start	39.6325904592965	-88.0822649850404	COLES
	end	39.6182255297223	-88.1320998047424	COLES
Hickory Creek				
464				
	start	38.9714278418083	-87.972721454297	JASPER
	end	38.99191464315	-87.989292523907	JASPER
Hickory Grove Creek				
478				
	start	39.6581354970801	-87.8937116601235	EDGAR
	end	39.5712873627184	-87.8825676201308	EDGAR
Hurricane Creek				

470

start	39.2889007816578	-88.1544749600653	CUMBERLAND
end	39.3793118297358	-88.0668208708762	COLES

Jordan Creek

433

start	40.0794151192358	-87.7990673709556	VERMILION
end	40.0588834821927	-87.8360461636444	VERMILION

443

start	40.3360527696651	-87.6231745570584	VERMILION
end	40.3553265493525	-87.5278198412106	VERMILION

Kickapoo Creek

471

start	39.4379695819539	-88.1681483569976	COLES
end	39.4597583113682	-88.2917593820249	COLES

Knights Branch

438

start	40.2763499940372	-87.7961879249888	VERMILION
end	40.2520446574291	-87.8336356533235	VERMILION

Little Embarras River

476

start	39.5736361588448	-88.0726889440362	COLES
end	39.680891264864	-87.9341744320393	EDGAR

Little Vermilion River

426

start	39.9463345271443	-87.5536756201362	VERMILION
end	39.9593741043792	-87.6447473681732	VERMILION

Middle Branch

442

start	40.3096675860339	-87.6376716065503	VERMILION
end	40.417753327133	-87.5275419211693	VERMILION

Middle Fork of Vermilion River

428

start	40.1035656386662	-87.7169902321166	VERMILION
end	40.4043343147541	-88.0191381621282	FORD

Mill Creek

487

start	39.2394256838229	-87.6762126527038	CLARK
end	39.3566749194214	-87.7425049309309	CLARK

Muddy Creek

242

start	39.1821395682335	-88.2309155529877	CUMBERLAND
end	39.2033657707304	-88.2765033266093	CUMBERLAND

North Fork of Embarras River

461

start	38.9148628762488	-87.9834798036322	JASPER
end	39.0924749553725	-87.9784039128617	JASPER

North Fork Vermilion River

441

start	40.236054881277	-87.6293326109766	VERMILION
end	40.5010729612407	-87.5261721834388	IROQUOIS

Panther Creek

462

start	39.0924749553725	-87.9784039128617	JASPER
end	39.184289386946	-88.0087906828419	CUMBERLAND

Polecat Creek

474

start	39.5013303165832	-88.1055006912296	COLES
end	39.5162859310237	-88.0338496162262	COLES

Riley Creek

472

start	39.4712869216685	-88.2108945161318	COLES
end	39.5116227820733	-88.2569469311765	COLES

Salt Fork

429

start	40.1035656386662	-87.7169902321166	VERMILION
end	40.0368232483006	-88.0746580039075	CHAMPAIGN

455

start	39.7425080214619	-87.572919448772	EDGAR
end	39.8018493662144	-87.5775868051385	EDGAR

Snake Creek

454

start	39.7128111863363	-87.6415954465778	EDGAR
end	39.7066978623237	-87.6543043306751	EDGAR

South Fork of Brouilletts Creek

453

start	39.7256495590209	-87.6437626049444	EDGAR
end	39.7319449005729	-87.6951881181821	EDGAR

Stony Creek

431

start	40.0943454186494	-87.8170769835194	VERMILION
end	40.1548847864725	-87.8840063394108	VERMILION

Sugar Creek

456

start	39.4838820536199	-87.5320762217325	EDGAR
end	39.6298164781408	-87.6762882912482	EDGAR

Unnamed Tributary of Big Creek

459

start	39.5047911835054	-87.7121475341945	EDGAR
end	39.5692784693864	-87.7194139533441	EDGAR

Unnamed Tributary of Brouilletts Creek

451

start	39.797449971524	-87.7178559181463	EDGAR

	end	39.831592697221	-87.7758036967074	EDGAR
Unnamed Tributary of Brushy Fork				
482				
	start	39.7340344129883	-88.0771406153965	DOUGLAS
	end	39.802586616189	-88.0753634663247	DOUGLAS
Unnamed Tributary of Deer Creek				
486				
	start	39.7102184848625	-88.1385435180688	DOUGLAS
	end	39.678866903649	-88.1425332064637	DOUGLAS
Unnamed Tributary of Embarras River				
467				
	start	38.9934159067144	-88.129258689394	JASPER
	end	39.0034725453128	-88.1210073578163	JASPER
Unnamed Tributary of Greasy Creek				
481				
	start	39.6182255297223	-88.1320998047424	COLES
	end	39.621059195964	-88.1538483534688	COLES
Unnamed Tributary of Hickory Creek				
210				
	start	38.99191464315	-87.989292523907	JASPER
	end	39.0117394234421	-87.9896104862878	JASPER
Unnamed Tributary of Middle Fork Vermilion River				
434				
	start	40.3478602982847	-87.9479087836067	CHAMPAIGN
	end	40.3408935605508	-87.9885982351498	CHAMPAIGN
Unnamed Tributary of Stony Creek				
430				
	start	40.1548847864725	-87.8840063394108	VERMILION

	end	40.1706704853124	-87.9033972187304	VERMILION
Unnamed Tributary of North Fork of the Vermilion River				
444				
	start	40.3553498759616	-87.6852979017427	VERMILION
	end	40.3665727663496	-87.733231992072	VERMILION
445				
	start	40.483638183168	-87.5751075709757	VERMILION
	end	40.4930209841439	-87.5771391859822	IROQUOIS
446				
	start	40.423223711311	-87.6788932053507	VERMILION
	end	40.4280461995299	-87.6895565256772	VERMILION
Vermilion River				
427				
	start	40.0116868805566	-87.5337540394346	VERMILION
	end	40.1035656386662	-87.7169902321166	VERMILION
Wabash River				
488				
	end	39.3034266238732	-87.605592332246	CLARK
West Crooked Creek				
466				
	start	39.0356467346919	-88.0923368283887	JASPER
	end	39.0545759701349	-88.1009871944535	JASPER
West Fork Big Creek				
19				
	start	39.436126036547	-87.7023848396263	CLARK
	end	39.5012337820195	-87.8003199656505	EDGAR
Willow Creek				
463				
	start	39.0191952007294	-87.9402449982878	CRAWFORD
	end	39.0529145507759	-87.9280073176635	CRAWFORD

(Source: Added at 32 Ill. Reg. 2254, effective January 28, 2008)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Hospice Programs

2) Code Citation: 77 Ill. Adm. Code 280

3)

Section Numbers:	Adopted Action:
280.1000	Amendment
280.1010	Amendment
280.1015	New
280.1020	Amendment
280.2000	Amendment
280.2010	Amendment
280.2020	Amendment
280.2030	Amendment
280.2035	New
280.2040	Amendment
280.2060	Amendment
280.2070	Amendment
280.2080	Amendment
280.2090	Amendment
280.3000	Amendment
280.4000	Amendment
280.4010	Amendment
280.4015	Amendment
280.4020	Amendment
280.4030	Amendment
280.4040	Amendment

4) Statutory Authority: Hospice Program Licensing Act [210 ILCS 60]

5) Effective Date of Rulemaking: January 23, 2008

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

7) Does this rulemaking contain incorporations by reference? Yes

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

9) Notice of Proposal Published in Illinois Register: February 2, 2007; 31 Ill. Reg. 2204

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 280.1010(d)(6), "Illinois" was removed from the text.

2. In Section 280.1015(c), "comprehensive or volunteer" was removed from the text.

3. In Section 280.1020(a)(2), the paragraph, "The type of hospice, i.e., volunteer or comprehensive~~full~~ hospice. If the program is a volunteer hospice, a complete listing of provided hospice services." was changed to "The type of hospice licensure sought by the program, either volunteer or comprehensive. If the program is a volunteer hospice, a complete listing of the hospice services to be provided during the term of the license shall be included. ~~The type of hospice, i.e., volunteer or full hospice. If the program is a volunteer hospice, a listing of provided services.~~".

4. In Section 280.1020(b), the paragraph, "An application for licensure as a ~~full~~ hospice shall be accompanied by a fee of $500~~$100. An application for a volunteer hospice shall be accompanied by a fee of $25.~~" was changed to, "An application for licensure as a comprehensive ~~full~~ hospice shall be accompanied by a fee of $500 ~~$100~~. An application for a volunteer hospice shall be accompanied by a fee of $250 ~~$25~~.".

5. In Section 280.1020(c), "initial" was inserted between "for" and "licensure".

6. In Section 280.2000(b), "provide services at more than one location" was changed to "operate from multiple hospice locations".

7. In Section 280.2000(b), paragraphs (2), (5), and (6), "provider number" was changed to "license".

8. Section 280.2010(c) was removed from the text.

9. In Section 280.2010(a) and Section 280.2010(a)(3)(D), "must" was changed to "shall".

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

10. In Section 280.2010(a)(7)(A), "attending" was inserted between "patient's" and "physician".

11. In Section 280.2010(a)(7)(C), the sentence, "The hospice program shall provide, at a minimum, one pastoral care person or other counselor." was changed to, "The hospice program shall provide, at a minimum, one counselor as defined in Section 280.1000 to provide spiritual counseling services ~~pastoral care person or other counselor~~.".

12. In Section 280.2010(a)(7)(D), "shall" was changed to "may ~~shall~~" and "unless the family declines" was inserted between "family" and the period.

13. In Section 280.2010(a)(8), "Nutritional Evaluation" was inserted in front of "Dietary Services," and a strike-through line was drawn through "Dietary Services". In the same line, "nutritional" was inserted in front of "dietary," which received a strike-through line and "by a qualified individual, including, but not limited to, a dietitian or nurse" was inserted between "patient" and the period.

14. In the headline for Section 280.2020, "**Administration**" was inserted and "**Administrator**" was stricken.

15. In Section 280.2020(a), the sentence, "The hospice program must have a governing body that designates an individual responsible for the day-to-day management of the hospice service plan." was changed to "Each hospice program shall have a governing body.".

16. In Section 280.2040, subsections, "k)~~i)~~", "l)~~j)~~", "m)~~k)~~" and "n)~~l)~~" was changed to "1)~~i)~~", "2)~~j)~~", "3)~~k)~~" and "4)~~l)~~" respectively.

17. In Section 280.2040(1)~~(i)~~, "Social Security number;" was stricken.

18. In Section 280.2060, the following language was inserted in the rulemaking starting at (d):

    d) All entries into the medical record shall be authenticated by the individual who made or authorized the entry. "Authentication," for purposes of this Section, means identification of the author of a medical record entry by

the author, and confirmation that the contents are what the author intended.

e) The medical record may include entries that are transmitted by facsimile machine, provided that the faxed copies will be maintained on non-thermal paper and that the faxed copies will be dated and authenticated in accordance with hospice policy.

f) Written signatures or initials and electronic signatures or computer-generated signature codes are acceptable as authentication. All signatures or initials, whether written, electronic, or computer-generated, shall include the initials of the signer's credentials.

g) In order for a hospice to employ electronic signatures or computer-generated signature codes for authentication purposes, the hospice shall adopt a policy that permits authentication by electronic or computer-generated signature. The policy shall identify those categories of the staff or other personnel within the hospice who are authorized to authenticate patient records using electronic or computer-generated signatures.

h) At a minimum, the policy shall include adequate safeguards to ensure confidentiality, including, but not limited to, the following:

1) Each user shall be assigned a unique identifier that is generated through a confidential access code.

2) The hospice shall certify in writing that each identifier is kept strictly confidential. This certification shall include a commitment to terminate a user's use of a particular identifier if it is found that the identifier has been misused. "Misused" shall mean that the user has allowed another person or persons to use his or her personally assigned identifier, or that the identifier has otherwise been inappropriately used.

3) The user shall certify in writing that he or she is the only person with user access to the identifier and the only person authorized to use the signature code.

4) The hospice shall monitor the use of identifiers periodically and take corrective action as needed. The process by which the hospice will conduct the monitoring shall be described in the policy.

19. Subsections (d) through (i) were re-labeled as (l) through (n).

20. In Section 280.2060(k)~~(e)~~, "provided" was changed to "receiving".

21. In Section 280.2060(m)~~(g)~~, "program" was changed to "policy".

22. In Section 280.2060(n)~~(h)~~, "beyond the last date of service" was inserted after "years" and "after the patient has been discharged" was stricken.

23. In Section 280.2070(c)~~(1)~~, "entry" was stricken and "admission" was inserted in front of it.

24. In Section 280.2070(c)(5), "Reviewing the active medical care and palliative care in patient's homes, in the inpatient unit and outpatient hospice service." was changed to "Reviewing the active medical care and palliative care in patients' ~~patient's~~ homes, and in any ~~the~~ inpatient setting in which the hospice has provided patient services ~~unit and outpatient hospice service~~."

25. In Section 280.2070(c)(8), the parentheses were stricken.

26. In Section 280.2070(d), "an attending" was inserted after "patient", "a" was struck, and "attending" was inserted after "the".

27. Section 280.2070(e) was restored.

28. In Section 280.2080~~(b)~~(1), "attending" was inserted after "their".

29. In Section 280.2080~~(b)~~(2), "sex, age, or" and "and shall apply to all applicants" were struck.

30. In Section 280.2080(h)(1), "a physician" was changed to "the attending physician" and "pastoral or other" was removed from the text.

31. In Section 280.2080(h)(2), "attending" was inserted after "patient's".

32. In the headline for Section 280.2090, "**Program**" was inserted after "**Assurance**" and "**Plan/Utilization Review**" was stricken.

33. In Section 280.4000(e)~~(f)~~, "The hospice shall have a written, dated and signed agreement with the inpatient facility that clearly states the responsibilities of each organization. Such an agreement is not necessary if the inpatient facility is a hospice residence that is under the jurisdiction of the same governing body as the hospice." was inserted and "The hospice and inpatient facility, unless a hospice residence is under the same governing body, shall have written, dated and signed agreements stating the responsibilities of each." was stricken.

34. In Section 280.4030(d)(1), "attending" was inserted prior to "physician".

35. In Section 280.4030(g)(1), "the attending" was inserted after "by" and "a" was stricken and "attending" was inserted after "the".

36. In Section 280.4030(n) and (o), "attending" was inserted prior to "physician".

The following changes were made in response to comments and suggestions of the JCAR:

1. In the Table of Contents, Section 280.2020, "Administrator" was struck and "Administration" was added.

2. In the Table of Contents, Section 280.2090, "Plan/Utilization Review" was struck and "Program" was added.

3. In Section 280.1000, the definition for "Certified Nurse Practitioner", "Certified" was changed to "Advanced".

4. In the third line of the definition for "Certified Nurse Practitioner", "Nursing and Advanced Practice Nursing Act" was changed to "Nurse Practice Act".

5. In the sixth line of the definition for "Certified Nurse Practitioner", "nurse" was changed to "advanced nurse".

6. In the definition for "Nurse", "Nursing and Advanced Practice Nursing" was struck and add "Nurse Practice" was added.

7. In Section 280.1010(c)(5), "Nursing and Advanced Practice Nursing Act" was changed to "Nurse Practice Act".

8. In Section 280.2060(d), line 2, the comma was moved outside the closing quotation mark.

9. In Section 280.2060(h)(4), line 2, "hospital" was changed to "hospice".

10. Section 280.2070(e) was stricken.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

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

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

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

15) Summary and Purpose of the Rulemaking: The Hospice Programs Code (77 Ill. Adm. Code 280) regulates hospice programs licensure. The proposed amendments implement Public Act 94-570 (SB0026), which made several changes to the Hospice Program Licensing Act [210 ILCS 60].

Section 280.1000 (Definitions) was amended to add new definitions and modify some existing definitions to implement Public Act 94-570, which added new definitions and modified some existing definitions.

Section 280.1010 (Incorporated and Referenced Materials) was amended to update professional standards and add federal regulations, Illinois State statutes, and Illinois State administrative codes.

Section 280.1015 (Licensure Applicability) was added to implement P.A. 94-570, which amended Section 4 (License) of the Hospice Program Licensing Act and added Section 4.5 (Provisional License) to the Act.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 280.1020 (Licensure Procedures) was amended to implement P.A. 94-570 and to increase the license fee to $500. The previous fees of $100 for a full hospice and $25 for a volunteer hospice have not been changed since Part 280 was adopted in 1978.

Section 280.2000 (Hospice Service Plan) was amended to add language regulating comprehensive hospices and to regulate hospices that provide services at more than one location.

Section 280.2010 (Hospice Services) was amended to add language expanding on the kinds of services offered at hospices, including statutory language on the plan of care, the level of services hospices are required to provide, and other matters.

Section 280.2020 (Administrator) was amended to add statutory language detailing the role of the hospice's governing body.

Section 280.2030 (Policies and Procedures) was amended to add a new subsection, consisting of statutory language, requiring hospice programs to have clearly defined admission criteria.

Section 280.2035 (Health Care Worker Background Check) was added. The requirement that hospice aides undergo a criminal background check was removed from the definition for hospice aides. This Section is being added to make the rule consistent with other rules under the Health Care Worker Background Check Act.

Section 280.2040 (Personnel Policies), Section 280.2060 (Clinical Records), Section 280.2070 (Medical Director and Physician Services), Section 280.2080 (Hospice Program Care), Section 280.2090 (Quality Assurance Plan/Utilization Review), Section 280.3000 (Research or Experimental Programs), Section 280.4000 (Inpatient Care Facilities, Section 280.4010 (Licensure of Hospice Residents), Section 280.4015 (Hospice Residence Application and Approval Review Criteria), Section 280.4020 (Hospice Residence Admission and Discharge), and Section 280.4030 (Hospice Residence Nursing Care and Assistance in Activities of Daily Living) were all amended to bring them in line with P.A. 94-570.

Section 280.4040 (Hospice Residence Operational Requirements) was amended to update referenced materials in subsections (e)(1) and (e)(2).

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

217/782-2043
e-mail: dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITAL AND AMBULATORY CARE FACILITIES

PART 280
HOSPICE PROGRAMS

SUBPART A: LICENSURE

Section
280.1000 Definitions
280.1010 Incorporated and Referenced Materials
280.1015 Licensure Applicability
280.1020 Licensure Procedures
280.1030 Statement of Ownership
280.1040 Inspections and Investigations
280.1050 Notice of Violation and Plan of Correction
280.1060 Adverse Licensure Actions

SUBPART B: HOSPICE SERVICES

Section
280.2000 Hospice Service Plan
280.2010 Hospice Services
280.2020 Administration~~Administrator~~
280.2030 Policies and Procedures
280.2035 Health Care Worker Background Check
280.2040 Personnel Policies
280.2045 Initial Health Evaluation for Employees
280.2050 Patient Rights
280.2060 Clinical Records
280.2070 Medical Director and Physician Services
280.2080 Hospice Program Care
280.2090 Quality Assurance Program~~Plan/Utilization Review~~
280.3000 Research or Experimental Programs

SUBPART C: INPATIENT CARE

Section

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

280.4000 Inpatient Care Facilities
280.4010 Licensure of Hospice Residences
280.4015 Hospice Residence Application and Approval Review Criteria
280.4020 Hospice Residence Admission and Discharge
280.4030 Hospice Residence Nursing Care and Assistance in Activities of Daily Living
280.4040 Hospice Residence Operational Requirements

AUTHORITY: Implementing and authorized by the Hospice Program Licensing Act [210 ILCS 60].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 467, effective January 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10003, effective July 15, 1996; Part repealed and new Part adopted at 22 Ill. Reg. 10625, effective June 1, 1998; emergency amendment at 23 Ill. Reg. 6913, effective June 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13232, effective October 20, 1999; amended at 28 Ill. Reg. 14121, effective October 15, 2004; amended at 32 Ill. Reg. 2330, effective January 23, 2008.

SUBPART A: LICENSURE

Section 280.1000 Definitions

Act – the Hospice Program Licensing Act [210 ILCS 60].

Attending Physician – a physician who is a doctor of medicine or osteopathy and is identified by an individual, at the time the individual elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care. (Section 3(a-10) of the Act) A Certified Nurse Practitioner can function in the role of attending physician as specified in section 408 of the federal Medicare Prescription Drug Improvement and Modernization Act of 2003.

Bereavement – the period of time during which the hospice patient's family experiences and adjusts to the death of the hospice patient. (Section 3(a) of the Act)

Bereavement Services – counseling services provided to an individual's family after the individual's death. (Section 3(a-5) of the Act)

Advanced Nurse Practitioner – a registered nurse who meets the requirements for licensure as an advanced practice nurse in the category of Certified Nurse Practitioner under the Nurse Practice Act. According to section 408 of the Medicare Prescription Drug Improvement and Modernization Act of 2003, a nurse practitioner may not serve as a medical director or as the physician member of the interdisciplinary group. The advanced nurse practitioner, acting as the attending physician, would be prohibited from certifying the terminal diagnosis.

Comprehensive Hospice – a program that provides hospice services and meets the minimum standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR 418 but is not required to be Medicare-certified. (Section 3(h-10) of the Act)

Counselor – a person who has earned at a minimum a bachelor's degree in counseling, psychology, or social work from an accredited college or university and who has one year of counseling experience in a health care setting; or a religious professional (clergy, religious or theologically trained lay person) who has a combination of documented formal training in pastoral counseling and supervised counseling experience in a health care or clinical setting. The total of ~~academic and~~ supervised work experience must equal at least one year in a clinical or health care setting~~five years~~. Any person employed as a "counselor" in an Illinois Licensed Hospice Program prior to September 1, 1985 may continue to serve in that capacity at that agency only, even though he or she may not meet the qualifications for "counselor" as set forth in this Part.

Department – the Illinois Department of Public Health. (Section 3(b) of the Act)

Director – the Director of the Illinois Department of Public Health or designee. (Section 3(c) of the Act)

Employee – a paid or unpaid member of the staff of a hospice program, or, if the

hospice program is a subdivision of an agency or organization, of the agency or organization, who is appropriately trained and assigned to the hospice program. "Employee" also means a volunteer whose duties are prescribed by the hospice program and whose performance of those duties is supervised by the hospice program. (Section 3(l-5) of the Act)

~~*Full Hospice – a coordinated program of home and inpatient care providing directly, or through agreement, palliative and supportive medical, health and other services to terminally ill patients and their families.* (Section 3(d) of the Act) In this Part, the use of the phrase "full hospice" applies only to full hospice programs. The use of "volunteer hospice" applies only to volunteer hospice programs. The use of "hospice" or "hospice programs" applies to both full hospice programs and volunteer hospice programs.~~

Geographic Service Areas – the counties, cities, census track, etc., that the hospice identifies in the license application as required in Section 280.1020(a)(10) of this Part.

Governing Body – the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a hospice program and establishes policies concerning its operation and the welfare of the individuals it serves.

Home Health Agency – an agency licensed under the Home Health, Home Services, and Home Nursing Agency Licensing Act ~~[210 ILCS 55]~~.

Hospice Aide – a person who provides assistance with meals, dressing, movement, bathing or other personal needs or maintenance. Hospice aides must meet the requirements for Home Health Aides in 77 Ill. Adm. Code 245.70 ~~and 245.72~~ or Nursing Assistants in 77 Ill. Adm. Code 300.660 ~~and 300.661~~.

Hospice Care – a program of palliative care that provides for the physical, emotional, and spiritual care needs of a terminally ill patient and his or her family. The goal of such care is to achieve the highest quality of life as defined by the patient and his or her family through the relief of suffering and control of symptoms. (Section 3(d) of the Act)

Hospice Care Team – an interdisciplinary group or groups ~~working unit~~ composed of individuals who provide or supervise the care and services offered

by the hospice.~~but not limited to a physician, a nurse, a social worker, a pastoral or other counselor, and trained volunteers.~~ (Section 3(e) of the Act)

Hospice Patient – a terminally ill person receiving hospice services. (Section 3(f) of the Act)

Hospice Patient's Family – a hospice patient's immediate family consisting of a spouse, sibling, child, parent, ~~significant other~~ *and those individuals designated as such by the patient for the purposes of* the *Act*. (Section 3(g) of the Act)

Hospice Program – a licensed public agency or private organization, or a subdivision of either of those, that is primarily engaged in providing care to terminally ill individuals through a program of home care or inpatient care, or both home care and inpatient care, utilizing a medically directed interdisciplinary hospice care team of professionals or volunteers, or both professionals and volunteers. A hospice program may be licensed as a comprehensive hospice program or a volunteer hospice program. (Section 3(h-5) of the Act)

Hospice Residence –a~~A~~ separately licensed home, apartment building, or similar building providing living quarters:

> *that is owned or operated by a person licensed to operate as a comprehensive~~full~~ hospice; and*
>
> *at which hospice services are provided to facility residents.*

A building that is licensed under the Hospital Licensing Act or the Nursing Home Care Act is not a hospice residence. (Section 3(g-1) of the Act)

Hospice Service Plan – a plan detailing the specific hospice services offered by a comprehensive~~full~~ or volunteer hospice program, and the administrative and direct care personnel responsible for those services. The plan shall include but not be limited to those items specified in Section 280.2000 of this Part. (Section 3(j) of the Act)

Hospice Services – a range of professional and other supportive services provided to a hospice patient and his or her family. These services may include, but are not limited to, physician services, nursing services, medical social work services, spiritual counseling services, bereavement services, and volunteer

services palliative and supportive care provided to a hospice patient and his or her family to meet the special need arising out of the physical, emotional, spiritual and social stresses which are experienced during the final stages of illness and during dying and bereavement. (Section 3(h) of the Act)

Hospital – a location licensed under the Hospital Licensing Act [210 ILCS 85].

Long-Term Care Facility – a location licensed under the Nursing Home Care Act [210 ILCS 45].

Multiple Hospice Location – a location or site from which the hospice program provides non-residential nursing, social, pastoral/counseling, bereavement or dietary services within a portion of the total geographic area served by the hospice program. The multiple hospice location is part of the hospice program and is located sufficiently close to share administration, supervision and services in a manner that renders it unnecessary for the multiple hospice location to independently require a hospice license. Multiple hospice locations are not hospice residences and shall not provide inpatient care. *Should inpatient care be required it shall be provided in a hospital, skilled nursing facility* or a hospice residence. (Section 3(d) of the Act)

Not-for-Profit Agency – any hospice program that is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or pursuant to a trust or endowment established for nonprofit, charitable purposes.

Nurse – a registered nurse or a licensed practical nurse as defined in the Nurse PracticeNursing and Advanced Practice Nursing Act [225 ILCS 65].

Palliative Care – the management of pain and other distressing symptoms that incorporates medical, nursing, psychosocial, and spiritual care according to the needs, values, beliefs, and culture or cultures of the patient and his or her family. The evaluation and treatment is patient-centered, with a focus on the central role of the family unit in decision-making.treatment to provide for the reduction or abatement of pain and other troubling symptoms, rather than treatment aimed at investigation and intervention for the purpose of cure or inappropriate prolongation of life. (Section 3(i) of the Act)

~~Patient's Representative – an individual who has been authorized under the Health Care Surrogate Act [755 ILCS 40] to terminate medical care or to elect or revoke the election of hospice care on behalf of a terminally ill individual who is mentally or physically incapacitated. This may include a legal guardian.~~

Physician – any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 ~~[225 ILCS 60]~~.

Representative – an individual who has been authorized under State law to terminate an individual's medical care or to elect or revoke the election of hospice care on behalf of a terminally ill individual who is mentally or physically incapacitated. (Section 3(l-10) of the Act)

Research or Experimental Programs – use of patients receiving services in the systematic study, observation, or evaluation of factors related to the prevention, assessment, treatment, and understanding of an illness. This involves all behavioral and medical experimental research that involves human beings as experimental subjects.

~~Significant Others – friends and associates who provide physical, emotional, spiritual or financial support to the patient.~~

Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act ~~[225 ILCS 20]~~ and has a minimum of one year of social work experience in a health care setting. An exception to the one-year experience requirement may be allowed upon approval by the Department of Public Health. The Department's decision to grant an exception will be based on, but not be limited to, the hospice's efforts to employ a social worker who meets this requirement.

Staff – paid employees of a hospice, individuals working under contractual agreements, and volunteers.

Terminally Ill – a medical prognosis by a physician that a patient has an anticipated life expectancy of one year or less. (Section 3(k) of the Act)

Volunteer – a person who offers his or her services to a hospice without compensation. Reimbursement for a volunteer's expenses in providing hospice service shall not be considered compensation. (Section 3(l) of the Act)

Volunteer Hospice – a program which provides hospice services to patients regardless of their ability to pay, with emphasis on the utilization of volunteers to provide services, under the administration of a not-for-profit agency. This does not prohibit the employment of staff. (Section 3(m) of the Act) ~~In this Part, the use of the phrase "full hospice" applies only to full hospice programs. The use of "volunteer hospice" applies only to volunteer hospice programs. The use of "hospice" or "hospice programs" applies to both full hospice programs and volunteer hospice programs.~~

Workstation – an office provided for an employee's convenience and not identified in advertising or used for providing hospice services.

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.1010 Incorporated and Referenced Materials

a) The following regulations and standards are incorporated by reference in this Part:

1) Private and professional association standards:
National Fire Protection Association (NFPA), Standard No. 101 (2000~~1994~~): Life Safety Code, Chapter 22 and Chapter 23 "Board and Care Homes, Impractical Evacuation Capabilities", which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169~~02269~~.

2) Federal regulations and statutes:

A) Department of Health and Human Services
Centers for Medicare and Medicaid Services
~~Health Care Financing Administration~~
42 CFR 2.52 (Research Activities) (2004~~1995~~).

B) Department of Health and Human Services
Food and Drug Administration
21 CFR 178.1010 (Sanitizing Solutions) (2005~~1995~~).

C) Department of Health and Human Services
Centers for Medicare and Medicaid Services

42 CFR 418 (Conditions of Participation) (2004).

D) Medicare Prescription Drug Improvement and Modernization Act of 2003 (P.L. 108-173).

b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions~~additions or deletions~~ subsequent to the date specified.

c) The following State statutes are referenced in this Part:

1) Hospital Licensing Act [210 ILCS 85];

2) Nursing Home Care Act [210 ILCS 45]; ~~and~~

3) Illinois Administrative Procedure Act [5 ILCS 100];~~.~~

4) Health Care Worker Background Check Act [225 ILCS 46];

5) Nurse Practice Act [225 ILCS 65];

6) Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55];

7) General Not For Profit Corporation Act of 1986 [805 ILCS 105];

8) Counties Code [55 ILCS 5];

9) Medical Practice Act of 1987 [225 ILCS 60]; and

10) Clinical Social Work and Social Work Practice Act [225 ILCS 20].

d) The following State rules are referenced in this Part:

1) Department of Public Health, Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100);

2) Department of Public Health, Illinois Home Health Agency Code (77 Ill. Adm. Code 245);

3) Department of Public Health, Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300);

4)~~2)~~ Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690); ~~and~~

5)~~3)~~ Department of Public Health, Food Service Sanitation Code (77 Ill. Adm. Code 750);~~.~~

6) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890);

7) Department of Public Health, Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.1015 Licensure Applicability

a) A hospice program may be licensed as a comprehensive hospice program or a volunteer hospice program. Throughout this Part, standards that apply only to comprehensive or volunteer hospice providers will be noted. The use of "hospice" or "hospice programs" applies to both comprehensive hospice programs and volunteer hospice programs.

b) *No person shall establish, conduct or maintain a comprehensive or volunteer hospice program without first obtaining a license from the Department.* (Section 4(a) of the Act)

c) No public or private agency shall advertise or present itself to the public as a hospice program without obtaining a license from the Department.

d) *A hospice residence may be operated only at the locations listed on the license. A comprehensive hospice program owning or operating a hospice residence is not subject to the provisions of the Nursing Home Care Act in owning or operating a hospice residence.* (Section 4(a) of the Act)

e) *Every licensed hospice program in operation on* August 12, 2005 *that does not meet all of the requirements for a comprehensive hospice program or volunteer hospice program as set forth in* the *Act shall be deemed to hold a provisional license to continue that operation on and after that date.* (Section 4.5 of the Act)

f) *The provisional license shall remain in effect for one year after* August 12, 2005 *or until the Department issues a regular license under Section 4* of the Act, *whichever is earlier.* (Section 4.5 of the Act)

(Source: Added at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.1020 Licensure Procedures

a) *An application for* an initial *license or* a *renewal* license *to operate as a comprehensive~~full~~ or volunteer hospice program shall be* in writing on *forms provided by* the Department. (Section 5 of the Act) The application shall be made under oath and shall contain the following information:

1) The name, address, and telephone number of the hospice program location.

2) The type of hospice licensure sought by the program, either volunteer or comprehensive. If the program is a volunteer hospice, a complete listing of the hospice services to be provided during the term of the license shall be included.~~The type of hospice, i.e., volunteer or full hospice. If the program is a volunteer hospice, a listing of provided services.~~

3) If multiple hospice locations are used, the address and phone number of the central office and the address and phone number of each multiple hospice location.

4) A statement of ownership in accordance with Section 280.1030 of this Part.

5) The name and address of the registered agent or other individual authorized to receive Service of Process for the hospice program.

6) The name of the person under whose management or supervision the

program will be operated.

7) A listing of professional staff including their name, title, license or registration number, whether they are full or part time, and whether they are paid or volunteer employees.

8) Number of volunteers and (approximate) total combined volunteer hours of care and service per week.

9) Source of income.

10) A designation of the proposed geographic area to be served by the hospice.

11) Hospice census report for the fiscal year (for renewals only).

12) A listing of outside contractors.

13) A copy of the annual hospice service plan.

14) A copy of the current annual budget and financial audit for the current fiscal year.

15) If the central office is used by patients and the public, a certification from the local fire authority or State Fire Marshal that the location meets fire and safety ordinances and laws.

b) An application for licensure as a comprehensive ~~full~~ hospice shall be accompanied by a fee of $500~~$100~~. An application for a volunteer hospice shall be accompanied by a fee of $250~~$25~~.

c) Upon receipt and review of a complete application for initial licensure, the Department shall conduct an inspection to determine compliance with the Act and this Part.

d) If the hospice program is found to be in substantial compliance with the Act and this Part, the Department shall issue a license for a period of one year.

e) An application for license renewal shall be filed annually with the Department 60

days prior to the expiration of the license, on forms provided by the Department.

1) The renewal application shall comply with the requirements of subsections (a)(1)-(6), ~~and~~ (a)(10) and (a)(11)~~,~~ and subsection (b) of this Section. The fee shall be $500.

2) Pursuant to Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65], licensees who are individuals are subject to denial of renewal of licensure if the individual is more than 30 days delinquent in complying with a child support order.

3) Upon receipt and review of a complete application for license renewal, the Department may conduct a survey. The Department's decision to conduct a survey will be based on, but not be limited to, compliance history, changes in key personnel, complaints and the length of time since the last survey. The Department shall renew the license in accordance with subsection (d) of this Section.

f) The licensee shall report changes in the information on the application to the Department within ten days after the change. The following changes need not be reported: number of volunteers and total hours; sources of income for the fiscal year; hospice census report numbers; staff changes for other than program supervisors.

g) *The* hospice program *license shall be displayed in a conspicuous place inside the hospice program office*. (Section 4(e) of the Act)

h) *The license shall be valid only in the possession of the hospice to which it was originally issued and shall not be transferred or assigned to any other person, agency, or corporation.* (Section 4(c) of the Act) This subsection does not prohibit the use of workstations throughout the geographic service areas.

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

SUBPART B: HOSPICE SERVICES

Section 280.2000 Hospice Service Plan

a) Each hospice program shall develop an annual hospice service plan detailing the

specific hospice services offered, and the administrative and direct care personnel responsible for those services. The hospice service plan shall include, but not be limited to:

1~~a~~) *Identification of the person or persons administratively responsible for the program*.

2~~b~~) *The estimated average monthly patient census*.

3~~c~~) *The proposed geographic area the hospice will serve.*

4~~d~~) *A listing of those hospice services provided directly by the hospice, and those hospice services provided indirectly through a contractual agreement*.

5~~e~~) *The names and qualifications of those persons or entities under contract to provide indirect hospice services*.

6~~f~~) *The name and qualifications of those persons providing direct hospice services, with the exception of volunteers*.

7~~g~~) *A description of how the hospice plans to utilize volunteers in the provision of hospice services*.

8~~h~~) *A description of the program's* clinical *record-keeping system* for the licensed hospice program location and any multiple hospice locations. (Section 3(j) of the Act)

b) Comprehensive hospices that operate from multiple hospice locations shall comply with the following:

1) The hospice must be able to exert the supervision and control necessary at each location to assure that all hospice care and services continue to be responsive to the needs of the patient/family at all times and in all settings;

2) Each location must provide the same full range of services that is required of the hospice to which the license was issued;

3) Each patient must be assigned to a specific hospice care team responsible for ongoing assessment, planning, monitoring, coordination and provision of care;

4) The hospice medical director must assume overall responsibility for the medical component of the hospice's patient care program at all locations;

5) Each location must be responsible to the same governing body and central administration that governs the hospice to which the license was issued, and the governing body and central administration must be able to manage the location adequately and to assure quality of care at the location; and

6) All hospice patients' clinical records requested by the surveyor must be available at the hospice site to which the license was issued.

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.2010 Hospice Services

a) The hospice care team will be responsible for ensuring that all services are provided in accordance with the patient care plan. Services will be provided directly by the hospice or through written contracts with other providers. A comprehensive or volunteer hospice shall comply with the following:

1) *The hospice program shall foster independence of the patient and his*/her *family by providing training, encouragement and support so that the patient and family can care for themselves as much as possible.* (Section 8(f) of the Act).

2)~~b)~~ *The hospice program must have functioning hospice care teams that develop the hospice patient plans of care in accordance with the standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR 418.* (Section 8(c) of the Act)~~Each volunteer hospice shall provide at least Nursing Services or Social Services and one of the other hospice services defined in subsection (c) of this Section. Each volunteer hospice shall make available a list of referrals for other care services not provided directly or by arrangement by the hospice program. The volunteer hospice shall educate these service providers on hospice philosophy.~~

3) *A hospice patient's plan of care must be established and maintained for each individual admitted to a hospice program, and the services provided to an individual must be in accordance with the individual's plan of care. The plans of care must be established and maintained in accordance with the standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR 418.* (Section 8(c-5) of the Act)

A) Each hospice shall ensure that there is a written plan of care for each patient. The hospice care team will complete an assessment of the care needs and evaluate the ability of the patient to be cared for in his/her place of residence.

B) The plan shall be updated based on ongoing assessments by the hospice care team.

C) The patient care plan shall provide for involvement of the family and others in treatment.

D) Each hospice providing services to a patient in both the home setting and the inpatient setting shall have written policies and procedures to share the written plan of care between both settings to facilitate continuity of care.

4) *The hospice program's services shall include nursing services, medical social work services, bereavement services, and volunteer services. These services shall be coordinated with those of the hospice patient's attending physician and shall be substantially provided by hospice program employees. The hospice program must provide these services in a manner consistent with the standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR 418.* (Section 8(a) of the Act)

5) *The hospice program must make nursing services, medical social work services, volunteer services and bereavement services available on a 24-hour basis to the extent necessary to meet the needs of individuals for care that is reasonable and necessary for the palliation and management of terminal illness and related conditions. The hospice program must provide these services in a manner consistent with the standards for*

certification under the Medicare program set forth in the Conditions of Participation in 42 CFR 418. (Section 8(a) of the Act)

6) *Hospice services, as defined in Section 3* of the Act, *may be furnished in a home or inpatient setting, with the intent of minimizing the length of inpatient care. The home care component shall be the primary form of care and shall be available on a part-time, intermittent, regularly scheduled basis.* (Section 8(a) of the Act)

7)~~c)~~ The required hospice services are defined as follows~~Each full hospice shall provide all of the following hospice services~~:

A)~~1)~~ Nursing Services – Nursing services are responsible for developing and implementing the diagnostic, therapeutic, and rehabilitative plan as prescribed by the patient's attending physician. The nursing staff shall provide care in the patient's place of residence~~private home environment, whether his own home or the home of family or friends~~; observe symptoms and reactions; and meet the nursing care needs of the terminally ill. A registered nurse must perform the initial home care assessment. Nursing services must be provided under the supervision of a registered nurse.

B)~~2)~~ Medical Social Work Services – Medical social ~~Social~~ work services shall be made available to the patient/family. An evaluation of the social needs, such as environment, religious background, financial needs, psychosocial needs, family, special activities, and psychological needs shall be conducted. Social services shall be delivered by a social worker.

C)~~3)~~ Spiritual ~~Pastoral/~~Counseling Services – The hospice program shall provide, at a minimum, one counselor as defined in Section 280.1000 to provide spiritual counseling services~~pastoral care person or other counselor~~. Spiritual ~~Pastoral/~~counseling services shall be made available to the patient and family. The patient's religious beliefs and practices shall be accommodated either by the hospice or with an outside source. *The hospice program shall not impose the dictates of any value or belief system on its patients.* (Section 8(g) of the Act)

D)~~4)~~ Bereavement Services ~~and Counseling~~ – Each hospice shall provide bereavement ~~counseling and~~ services to the families of hospice patients to the extent desired by the family. Bereavement services may~~shall~~ be coordinated with the family's clergy, if any, as well as with other community resources judged by the hospice care team to be useful to the family unless the family declines. *The bereavement services must be provided in accordance with the standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR 418.* (Section 8(e) of the Act)

E) Volunteer Services – The hospice program must use volunteers in day to day administration and/or direct patient care roles. *The hospice program shall utilize the services of trained volunteers in accordance with the standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR 418.* (Section 8(j) of the Act)

8)~~5)~~ Nutritional Evaluation~~Dietary Services~~ – The hospice program shall perform a nutritional~~dietary~~ evaluation of the patient by a qualified individual, including, but not limited to, a dietitian or nurse. This evaluation must be reviewed by the hospice care team. Consultation by a dietitian shall be available to the patient as determined necessary by the hospice care team.

b) *Additional requirements; comprehensive hospice program. In addition to complying with the standards prescribed by the Department under Section 9* of the Act *and complying with all other applicable requirements under* the *Act* and this Part, *a comprehensive hospice program must meet the minimum standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR 418.* (Section 8.5 of the Act)

c) *Additional requirements; volunteer hospice program. In addition to complying with the standards prescribed by the Department under Section 9* of the Act *and complying with all other applicable requirements under* the *Act* and this Part, *a volunteer hospice program must do the following:*

1) *Provide hospice care to patients regardless of their ability to pay, with emphasis on the utilization of volunteers to provide services. Nothing in*

this subsection (c)(1) *prohibits a volunteer hospice program from employing paid staff, however.*

2) *Provide services not required under subsection (a) of Section 8* of the Act *in accordance with generally accepted standards of practice and in accordance with applicable local, State, and federal laws.*

3) *Include the word "Volunteer" in its corporate name and in all verbal and written communications to patients, patients' families and representatives, and the community and public at large.*

4) *Provide information regarding other hospice care providers available in the hospice program's service area.* (Section 8.10 of the Act)

~~d) Intake for hospice services shall be with the licensed hospice program location and not be done independently by multiple hospice locations.~~

~~e) A multiple hospice location, as an extension of the full hospice program, may not offer services that are different from those offered by the licensed hospice program. The activities and patient care shall be integrated into the program of the fully licensed hospice, including medical and interdisciplinary team review.~~

~~f) A multiple hospice location found to be operating semi-autonomously from the licensed hospice program shall be required to be independently licensed.~~

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.2020 Administration~~Administrator~~

a) Each hospice program shall have a governing body. *The governing body must ensure that all services are provided in accordance with accepted standards of practice and shall assume full legal responsibility for determining, implementing, and maintaining the hospice program's total operation.* (Section 8(a-5) of the Act)

b) The governing body shall appoint an administrator whose qualifications and duties are defined in writing. The administrator shall have the following responsibilities:

1)~~a)~~ Ensure the completion, maintenance, and submission of all required reports and records to the Department.

2)~~b)~~ Assist the governing body in formulating and annually reviewing the hospice program policies and procedures.

3)~~c)~~ Maintain a current organizational chart that identifies the lines of authority from clinical supervision to the patient care level. Shift supervisors and staff members in positions of authority shall be identified.

4)~~d)~~ Have authority for the management of the business affairs and overall day-to-day operation of the hospice.

5)~~e)~~ Maintain personnel records, administrative records, and all policies and procedures of the hospice.

6)~~f)~~ Ensure the provision of an orientation and in-service training program for all staff, covering the physical, emotional, spiritual, bereavement and social needs of hospice patients and their families.

7)~~g)~~ Employ personnel who meet the requirements of the written job descriptions of the hospice.

8)~~h)~~ Designate in writing the staff member who will act in the absence of the administrator.

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.2030 Policies and Procedures

a) The hospice shall have written policies and procedures governing all services provided by the hospice, which shall be formulated with the involvement of the administrator and representatives of the governing body. The policies shall be available to the staff, patients, patients' families and the public. These written policies shall be followed in operating the hospice and shall be reviewed annually and revised as necessary. These policies shall include a written statement:

1)~~a)~~ of philosophy, objectives and goals the hospice is striving to achieve;

2)~~b)~~ of the hospice services provided and the type of hospice license required;

3)~~c)~~ of the relationship of the hospice to the families of its patients;

4)~~d)~~ concerning admission, transfer, and discharge of patients ~~(see Section 280.2010(d))~~;

5)~~e)~~ concerning community participation and input, if any; and

6)~~f)~~ concerning the planning, evaluation and quality assurance process.

b) *The hospice program shall clearly define its admission criteria. Decisions on admission shall be made by a hospice care team and shall be dependent upon the expressed request and informed consent of the patient or the patient's legal guardian. For purposes of* the *Act* and this Part*, "informed consent" means that a hospice program must demonstrate respect for an individual's rights by ensuring that an informed consent form that specifies the type of care and services that may be provided as hospice care during the course of the patient's illness has been obtained for every hospice patient, either from the patient or from the patient's representative.* (Section 8(h) of the Act)

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.2035 Health Care Worker Background Check

A hospice program shall comply with the Health Care Worker Background Check Act and the Health Care Worker Background Check Code.

(Source: Added at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.2040 Personnel Policies

a) The hospice shall develop and maintain written personnel policies that are followed in the operation of the program. These policies shall include policies and procedures regarding the use of volunteers.

b) Employment application forms shall be completed on each employee and kept on file in the program's central office. The file shall contain, at a minimum, home address; telephone number; Social Security number; educational background;

documentation of current professional certification, licensure or registration, as applicable; past employment history including dates, positions held, reasons for leaving. The date of employment and position held shall be documented in each file.

c) Each employee shall have an accurate written job description. Employees shall only be assigned duties directly related to their job functions, as identified in the job descriptions. Exceptions may be made when unplanned events, such as severe weather, limit staffing temporarily.

d) *Where applicable, every hospice program employee must be licensed, certified, or registered in accordance with federal, State and local laws.* (Section 8(n) of the Act)

e)~~d)~~ All personnel shall have either training or experience, or both, in the job assigned them. The hospice program shall provide an ongoing program for the training and education of its employees, appropriate to their responsibilities.

f)~~e)~~ All new employees shall complete an orientation program covering, at a minimum, the program's philosophy and goals; job orientation, emphasizing allowable duties of the new employee, safety, and appropriate interactions with patients and families.

g)~~f)~~ All employees shall attend in-service training programs pertaining to their assigned duties at least annually. Written records of program content and personnel attending each session shall be maintained.

h)~~g)~~ The hospice~~facility~~ shall document all arrangements for each consultant's services in a written agreement setting forth services to be provided.

i)~~h)~~ The hospice shall retain professional and supervisory responsibility for all services provided under arrangements and shall ensure that all services are:

1) Authorized by the hospice;

2) Furnished in a safe and effective manner by qualified personnel; and

3) Delivered in accordance with the patient's plan of care.

j) *The hospice program shall utilize the services of trained volunteers in accordance with the standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR 418.* (Section 8(j) of the Act)

1)~~i)~~ Volunteer application forms shall be completed on each volunteer and kept on file in the program's central office. The file shall contain, at a minimum, home address; telephone number; ~~Social Security number;~~ educational and employment background relating to the volunteer position; documentation of current professional certification, licensure or registration relating to the volunteer position. The date of acceptance as a volunteer and position held shall be documented in each file.

2)~~j)~~ Each volunteer shall have an accurate written job description. Volunteers shall only be assigned duties directly related to their job functions, as identified in the job description.

3)~~k)~~ All volunteers shall have either training or experience, or both, in the job assigned them.

4)~~l)~~ All volunteers shall complete an orientation program covering, at a minimum, the program's philosophy and goals; job orientation, emphasizing allowable duties of the volunteer, safety, and appropriate interactions with patients and families.

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.2060 Clinical Records

Each hospice must establish and maintain a clinical record for every individual receiving services.

a) *The hospice program shall keep accurate, current and confidential records on all hospice patients and their families in accordance with the standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR 418, except standards or conditions in connection with Medicare or Medicaid election forms do not apply to patients receiving hospice care at no charge.* (Section 8(i) of the Act)

b)~~a)~~ A standardized format shall be used for documenting:

1) Hospice care team services;

2) Home care services; and

3) Inpatient services.

c)~~b)~~ Record entries shall be made by hospice staff members or individuals providing services under contract.

d) All entries into the medical record shall be authenticated by the individual who made or authorized the entry. "Authentication", for purposes of this Section, means identification of the author of a medical record entry by the author, and confirmation that the contents are what the author intended.

e) The medical record may include entries that are transmitted by facsimile machine, provided that the faxed copies will be maintained on non-thermal paper and that the faxed copies will be dated and authenticated in accordance with hospice policy.

f) Written signatures or initials and electronic signatures or computer-generated signature codes are acceptable as authentication. All signatures or initials, whether written, electronic, or computer-generated, shall include the initials of the signer's credentials.

g) In order for a hospice to employ electronic signatures or computer-generated signature codes for authentication purposes, the hospice shall adopt a policy that permits authentication by electronic or computer-generated signature. The policy shall identify those categories of the staff or other personnel within the hospice who are authorized to authenticate patient records using electronic or computer-generated signatures.

h) At a minimum, the policy shall include adequate safeguards to ensure confidentially, including, but not limited to, the following:

1) Each user shall be assigned a unique identifier that is generated through a confidential access code.

2) The hospice shall certify in writing that each identifier is kept strictly

confidential. This certification shall include a commitment to terminate a user's use of a particular identifier if it is found that the identifier has been misused. "Misused" shall mean that the user has allowed another person or persons to use his or her personally assigned identifier, or that the identifier has otherwise been inappropriately used.

3) The user shall certify in writing that he or she is the only person with user access to the identifier and the only person authorized to use the signature code.

4) The hospice shall monitor the use of identifiers periodically and take corrective action as needed. The process by which the hospice will conduct the monitoring shall be described in the policy.

i)~~c)~~ Progress notes shall be signed and dated by the person providing the services.

j)~~d)~~ The record shall include a conclusion or evaluation at the termination of hospice care, including a referral of the patient, and the hospice patient's family ~~and/or significant others~~ to another resource, if applicable.

k)~~e)~~ The record for each patient~~,~~ and the hospice patient's family receiving~~member and/or significant other provided~~ hospice home care services shall include:

1) The names~~name~~ of persons~~the person(s)~~ who are~~is~~ assuming responsibility for the care of the patient at home; and

2) The suitability or adaptability of the residence for the provision of required services.

l)~~f)~~ The documentation must reflect the physical condition of the patient, the psychosocial status of the patient and the hospice patient's~~,~~ family, ~~member, and/or significant other~~ and the care provided from admission through discharge.

m)~~g)~~ Each hospice must have a written policy~~program~~ to identify how it will safeguard clinical records against loss, destruction and unauthorized use.

n)~~h)~~ A patient's clinical records shall be maintained by the hospice for at least five years beyond the last date of service~~after the patient has been discharged~~.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.2070 Medical Director and Physician Services

a) The~~Each full~~ *hospice program shall have a medical director who shall be a doctor of medicine or osteopathy and~~physician~~ licensed to practice medicine in all of its branches*. (Section 8(d) of the Act) In his/her absence, the medical director or governing body shall designate another physician to serve as hospice physician designee.

b) *The medical director shall have overall responsibility for medical direction of the patient care component of the hospice program~~and treatment of patients and their families rendered by the hospice care team,~~ and shall consult and cooperate with the patient's attending physician*. (Section 8(d) of the Act)

c) Duties of the medical director shall include but not be limited to:

1) Reviewing the clinical material of the referring physician to document basic disease process; the drug regimen; and assessment of the patient's health and prognosis at time of admission~~entry~~.

2) Performing an admission history and physical for each patient who has no other physician.

3) Assisting in developing the plan of care for each patient/family with the coordination of the patient's attending physician.

4) Attending and actively participating in patient/family care conferences, when requested to do so by the hospice care team coordinator.

5) Reviewing the active medical care and palliative care in patients'~~patient's~~ homes, and in any~~the~~ inpatient setting in which the hospice has provided patient services~~unit and outpatient hospice service~~.

6) Maintaining a regular schedule of participation in all components of the hospice care program; and maintaining 24-hour, seven days a week coverage of and ready availability to the hospice program through himself/herself or his/her hospice physician's designee.

7) Acting as a consultant to patient's attending physicians and other members of the hospice care team; helping to develop and review patient/family care policies and procedures; and serving on the hospice care team.~~; and reporting to the administrator regarding medical care delivered to the hospice patients.~~

8) Maintaining liaison with the ~~personal or~~ attending physician. ~~(~~The attending~~personal~~ physician is encouraged to provide primary care to his/her patient even though the patient also receives hospice care.~~)~~

9) Approving~~Establishing~~ written guidelines for symptom control, i.e., pain, nausea, vomiting, or other symptoms.

d) The hospice must ensure that each patient has an attending~~a~~ physician. The hospice program shall have each patient or his/her representative complete and sign a form indicating the name of the attending physician responsible for his/her care.

~~e) Each volunteer hospice shall have, at a minimum, a physician who will serve as a medical advisor to the hospice.~~

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.2080 Hospice Program Care

a) *The hospice program shall coordinate its services with professional and nonprofessional services already in the community.* (Section 8(b) of the Act)

b) *The* hospice *program may contract out for elements of its services.* (Section 8(b) of the Act) If services are contracted, the hospice care team is responsible for maintaining direct patient contact and overall coordination of hospice services.

c) *Any contract entered into between a hospice and a health care facility or service provider shall specify that the hospice care team retains the responsibility for planning and coordinating hospice services and care on behalf of a hospice patient and his*/her *family.* (Section 8(b) of the Act).

d) *All contracts shall be in compliance with* the *Act.*

e) *No hospice* that *contracts for any hospice services shall charge fees for services provided directly by the hospice care team* that *duplicate contractual services provided to the individual patient or his*/her *family*. (Section 8(b) of the Act)

f) *The hospice program must fully disclose in writing to any hospice patient, or to any hospice patient's family or representative, prior to the patient's admission, the hospice services available from the hospice program and the hospice services for which the hospice patient may be eligible under the patient's third-party payer plan (that is, Medicare, Medicaid, the Veterans Administration, private insurance or other plans).* (Section 8(a-10) of the Act)

g)~~a)~~ Each hospice program shall develop written policies and procedures for admissions and discharges, the function of the hospice care team, and the development of the patient care plan.

~~b)~~ ~~Admissions and Discharges~~

1) Admissions to the hospice program shall be limited to interested individuals who have been determined by their attending physician as having a terminal illness for which palliative care is considered the appropriate medical regimen.

2) Restrictions by ~~sex, age, or~~ geographic areas must be clearly stated by each hospice program~~ and shall apply to all applicants~~.

3) Upon admission, the hospice care team shall coordinate an evaluation of the patient's physical, medical, spiritual, social and psychological needs. The patient and the hospice patient's family~~, the family and his/her significant others~~ shall be evaluated to determine the unit of care.

4) Hospice services are voluntary and may be refused or stopped in accordance with written policies and procedures. The patient may request a return to curative treatment, at which time the need for hospice services is to be re-evaluated.

h) Function of the Hospice Care Team

1) Each comprehensive hospice will have, at a minimum, an interdisciplinary working unit called the hospice care team. This unit shall be composed of,

at a minimum, the attending physician, a nurse, a social worker, a counselor, and trained volunteers. The patient, patient's physician and patient's family are considered members of the hospice care team when development or revision of the patient's plan of care takes place.

2) Each volunteer hospice shall have a hospice care team consisting of staff from each of the services provided. The patient, patient's attending physician and patient's family are considered members of the hospice care team when development or revision of the patient's plan of care takes place. The hospice care team must participate in the development of every patient care plan. The hospice care team must establish a procedure to review each patient care plan on an ongoing basis, but at least monthly.

i) Patient Care Plan

1) Each comprehensive and volunteer hospice shall ensure that there is a written plan of care for each patient. The hospice care team will complete an assessment of the care needs and evaluate the ability of the patient to be cared for in his/her place of residence.

2) The plan shall be updated based on ongoing assessments by the hospice care team.

3) The patient care plan shall provide for involvement of the family in treatment.

4) Each comprehensive hospice or volunteer hospice providing services to a patient in both the home setting and the inpatient setting must have written policies and procedures to share the written plan of care between both settings to facilitate continuity of care.

~~c) Function of the Hospice Care Team~~

~~1) Each full hospice will have, at a minimum, an interdisciplinary working unit called the hospice care team. This unit shall be composed of, at a minimum, a physician, a nurse, a social worker, a pastoral or other counselor, and trained volunteers. The patient, patient's physician and patient's family and/or significant others are considered members of the hospice care team when development or revision of the patient's plan of~~

~~care takes place.~~

~~2)~~ ~~Each volunteer hospice shall have a hospice care team consisting of staff from each of the services provided. The patient, patient's physician and patient's family and/or significant others are considered members of the hospice care team when development or revision of the patient's plan of care takes place. The hospice care team must participate in the development of every patient care plan. The hospice care team must establish a procedure to review each patient care plan on an ongoing basis but at least monthly.~~

~~d)~~ ~~Patient Care Plan~~

~~1)~~ ~~Each full and volunteer hospice shall ensure that there is a written plan of care for each patient. The hospice care team will complete an assessment of the care needs and evaluate the availability of the patient to be cared for in his/her place of residence.~~

~~2)~~ ~~The plan shall be updated based on ongoing assessments by the hospice care team.~~

~~3)~~ ~~The patient care plan shall provide for involvement of the family and/or significant others in treatment.~~

~~4)~~ ~~Each full hospice or volunteer hospice providing services to a patient in both the home setting and the inpatient setting must have written policies and procedures to share the written plan of care between both settings to facilitate continuity of care.~~

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.2090 Quality Assurance Program~~Plan/Utilization Review~~

~~Each hospice shall establish a written quality assurance plan for review of the services delivered. The plan must include:~~

a) *The hospice program must conduct a quality assurance program in accordance with the standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR 418.* (Section 8(m) of the Act)~~A procedure~~

~~for individual assessment of care provided. At least quarterly, members of professional disciplines representing at least the scope of the hospice program shall review a 10% sample of both active and inactive clinical records of care delivered to hospice patients and families and shall provide a written summary for each individual assessment. The summary shall include the amount and kind of care delivered and shall address any unmet needs.~~

b) Each hospice shall establish a written quality assurance plan for review of the services delivered. The plan must include:

1)~~b)~~ A process for identification of quality assurance issues~~problems~~. The person or persons responsible for coordinating quality assurance shall review all summaries of individual assessments at least quarterly and prepare a written report addressing any problems with care, treatment services, availability of services, and methods of care delivery.

2)~~c)~~ A system to report to the governing body findings and recommendations for improving the quality of care delivered. The quality assurance reports shall be reviewed by the hospice administrator and the governing body.

3) The minutes of the meetings of the governing body, which shall indicate that the reports have been reviewed at least annually.

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.3000 Research or Experimental Programs

Each hospice shall have a written policy concerning initiating and participating~~participation~~ in research studies or experimental programs. ~~(~~Studies conducted only for the hospice quality assurance/performance improvement program~~statistical purposes only~~ are not considered to be research or experimental programs prior to initiation.~~)~~ The policy shall require that ~~approval from~~ the Director approve~~prior to initiating~~ any research study or experimental program. ~~The Director will base approval of experimental programs upon the following:~~

a) Hospice policies regarding research studies or experimental programs initiated by the hospice shall include the following:

1)~~a)~~ The establishment of appropriate written policies and procedures for all participants, including staff and patients affected.

2)~~b)~~ Requirements for written informed consent signed by each subject or patient representative or legal guardian.

3)~~c)~~ Procedures for full disclosure to subjects, including disclosures of conventional and experimental procedures, risk and/or potential discomfort, purposes or potential benefits, and alternative procedures.

4)~~d)~~ A statement that subjects~~Subjects~~ shall be permitted to withdraw consent and to discontinue participation at any time and for any reason.

5)~~e)~~ A statement that subjects~~Subjects~~ shall not be made, or requested, to waive any of their legal rights.

6)~~f)~~ A statement that confidentiality~~Confidentiality~~ shall be maintained regarding identity and clinical records of all participants.

7)~~g)~~ A statement that control~~Control~~ groups in treatment modalities shall be considered as participants in research and experimentation.

8)~~h)~~ The establishment of~~The hospice shall establish~~ an interdisciplinary research committee or human rights committee that is composed of both program staff members and persons who are not staff members. This committee shall include hospice patients or their representatives, or family members of former hospice patients, and persons from outside the facility, such as doctors, nurses, lawyers, parents, friends and advocates. All deliberations and decisions of the committee shall be documented.

9) A written review procedure for approval by the Institutional Review Board of the sponsoring organization or approval of the Hospice Interdisciplinary Review Committee established by the hospice program to assure compliance with the policy for protection of human subjects of the U.S. Department of Health and Human Services (42 CFR 2.52 (2004)).

b) The Director will base approval of research studies or experimental programs upon compliance with the requirements of subsection (a).

~~1)~~ ~~The committee shall review experimental programs and research activities in accordance with a written review procedure to assure compliance with~~

~~the policy for protection of human subjects of the Department of Health and Human Services (42 CFR 2.52 (1993)).~~

~~2) All deliberations and decisions shall be documented.~~

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

SUBPART C: INPATIENT CARE

Section 280.4000 Inpatient Care Facilities

~~a) *To the maximum extent possible, care shall be furnished in the patient's home. Should inpatient care be required, services are to be provided with the intent of minimizing the length of such care and shall only be provided in a hospital licensed under the Hospital Licensing Act, a skilled nursing facility licensed under the Nursing Home Care Act* or a hospice residence. (Section 3(d) of the Act)~~

a)~~b)~~ The comprehensive~~full~~ hospice is responsible for placing patients in an inpatient facility that provides 24-hour nursing services in accordance with each patient's plan of care. Each shift must include a registered nurse who provides or supervises direct patient care to the hospice patient.

b)~~c)~~ The inpatient facility shall provide hospice services in an area designed, equipped, and located for the comfort, convenience, and privacy of each patient and family member. This area shall have:

1) Physical space for private patient/family visiting;

2) Accommodations for family members to remain with the patient throughout the night;

3) Accommodations for family privacy after a patient's death; and

4) Decor that is homelike in design and function.

c)~~d)~~ The area of an inpatient facility that is used as the hospice unit shall be located so that the activities of the rest of the facility do not infringe upon the activities of patients, families, staff or visitors in the hospice unit. Likewise, the presence of

the hospice unit within the facility shall not interfere with the usual activities of the facility.

1) The inpatient facility shall have written policies that permit hospice patients to receive visitors, including small children, at any time of the day or night.

2) The inpatient facility shall have written policies that permit the hospice patient's family~~relatives and significant others of a hospice patient~~ to participate in providing care to the patient, in accordance with the patient care plan.

d)~~e)~~ It is permissible for a room in the designated hospice area to be used for nonhospice curative care, as long as there is written documentation that the nonhospice patient has been informed that the room is located in the hospice unit and the other patients in the unit are receiving palliative care rather than curative care. Such documentation shall include a statement to this effect, which has been signed by the patient. Hospice patients and nonhospice patients shall not be placed in the same room.

e)~~f)~~ The hospice shall have a written, dated and signed agreement with the inpatient facility that clearly states the responsibilities of each organization. Such an agreement is not necessary if the inpatient facility is a hospice residence that is under the jurisdiction of the same governing body as the hospice.~~The hospice and inpatient facility, unless a hospice residence is under the same governing body, shall have written, dated and signed agreements stating the responsibilities of each.~~

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.4010 Licensure of Hospice Residences

a) *The number of licensed hospice residences shall not exceed 12.* (Section 9(c)(9) of the Act)

b) An applicant shall submit a hospice residence license certificate application on forms provided by the Department. The application shall be made under oath and shall contain the following information:

1) All information required by Section 280.1020(a)(1)-(15)~~(b)(1)-(16)~~ of this Part;

2) Proposed staffing;

3) Documentation of a needs assessment and cost analysis of the establishment, licensing and maintenance of the proposed facility; and

4) Documentation of approval by the Governing Body of the applying licensed hospice program to proceed with application; commitment to expend necessary funds for application and completion of the project; and assignment of responsibility for moving forward with the application/implementation.

c) An application for licensure as a hospice residence shall be accompanied by a fee of $500.

d) Upon receipt and review of a complete application for licensure, the Department shall award license certificates to applicants who meet the requirements in Section 280.4015 of this Part, in the following geographic areas, in the order in which completed applications are received by the Department:

1) Four hospice residences located in counties with a population of 700,000 or more;

2) Four hospice residences located in counties with a population of 200,000 or less than 700,000; and

3) Four hospice residences located in counties with a population of less than 200,000.

e) A license certificate shall be valid for two years~~one year~~ from the date of issuance and may be renewed by the Department for an additional year, for a total of three~~two~~ years. Renewal of the license certificate for a third~~second~~ year will be based on, but not limited to, submittal of the following information:

1) Documentation of the obligation of funds for the applicant residence project by the hospice residence organization;

2) Letting of contracts for construction, purchase or renovation of physical space to be licensed as a hospice residence;

3) Architectural or construction certifications as to the percentage of completion of the hospice residence project; and

4) For buildings owned by the full hospice, the name, address, telephone number, occupation and percentage of direct or indirect financial interest of five percent or more in the legal entity that owns the building or proposed building; for leased buildings, the name, address and telephone numbers.

f) By the end of the third~~second~~ year, any license certificate not converted to a full license shall be null and void.

g) The Department shall issue available license certificates to the next complete, geographically appropriate applicant, in the order received by the Department.

h) Upon receipt of the completed application and notification by the hospice residence applicant that the facility is complete and ready for licensure, the Department shall conduct an inspection to determine compliance with the Act and this Part.

i) If the hospice residence is found to be in substantial compliance with the Act and this Part, the Department shall issue a license that expires on the same date as the comprehensive~~full~~ or volunteer hospice program license.

1) The license shall not be transferable; it is issued to the licensee and for the specific location; and

2) The license shall become automatically void and shall be returned to the Department if a hospice residence's comprehensive~~full~~ or volunteer license is revoked, nonrenewed, relinquished, denied, forfeited, or suspended.

j) An application for license renewal shall be filed with the Department 60 days prior to the expiration of the license, on forms provided by the Department.

1) The renewal application shall comply with the requirements of subsections

(b) and (c) of this Section.

2) A letter from the Office of the State Fire Marshal shall accompany the application certifying that the hospice residence physical plant meets the provisions of Section 280.4040~~280.4060~~ of this Part.

3) Pursuant to Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65], licensees who are individuals are subject to denial of renewal of licensure if the individual is more than 30 days delinquent in complying with a child support order.

4) Upon receipt and review of a complete application for license renewal, the Department shall conduct a survey. The Department shall renew the license in accordance with subsection (i) of this Section.

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.4015 Hospice Residence Application and Approval Review Criteria

a) Applications received for a hospice residence license shall be deemed complete upon receipt by the Department. Due to the limited number of available licenses, applicants will not be allowed to amend the application or provide additional supporting documentation during the review process. The application as submitted to the Department shall serve as the basis for all standard and prioritization evaluation.

b) The Department will review applications and award license certificates to applicants as applications are received.

c) To be eligible for issuance of a license certificate, an applicant shall meet the following criteria:

1) Proposed Residence Location/Facility
The proposal shall be evaluated for compliance with the following definition:

A) *"Hospice Residence" means a separately licensed home, apartment building, or similar building providing living quarters:*

i)~~A)~~ *That is owned or operated by a person licensed to operate as a comprehensive~~full~~ hospice; and*

ii)~~B)~~ *At which hospice services are provided to facility residents.*

B) *A building that is licensed under the Hospital Licensing Act or the Nursing Home Care Act is not a hospice residence.* (Section 3(g-1) of the Act)

2) Application Completeness
All required information for application shall be contained in the application submission, including, but not limited to, appropriate signatures, attestations, oaths, dates and fees.

3) Documentation of completed Needs Assessment and Cost Analysis
The application shall document that an assessment of the need for the hospice residence services and an analysis of the costs involved in the establishment, licensing and maintenance of such a facility have been conducted and reviewed for the proposed application. The documentation submitted shall demonstrate the criteria used and results of the assessments.

4) Documentation of approval for application by the applicant hospice's Governing Body
The application shall document that the proposed residence application has been thoroughly reviewed, discussed and approved by the Governing Body of the licensed hospice program applying for the residence license. "Approval" is defined as an official motion by the Board to proceed with the application; commitment by the organization to expend the necessary funds for application and completion of the project; and assignment of responsibility for moving forward with the application and implementation of the project.

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.4020 Hospice Residence Admission and Discharge

a) A patient shall be admitted only after receiving a documented terminally ill medical prognosis from a physician that he/she has an anticipated life expectancy

of 12~~six~~ months or less; the patient or patient's representative has elected hospice care; the hospice that owns and operates the hospice residence has accepted the individual as a patient of the hospice program; and in-home care is not practical.

b) Patients of mixed ages, i.e., adults, infants and children under 18 years of age, may be admitted provided that they meet all other facility admission requirements.

c) Before a patient is admitted to a facility or at the expiration of the period of a previous contract, a written contract shall be executed between the facility and the patient or patient's representative. The contract shall specify the services that will or will not be provided. The contract shall specify the rights, duties and financial obligations of the patient and the facility.

d) At the time of admission to the facility, a copy of the written contract shall be given to the patient and his/her representative.

e) Facilities shall ensure that all forms, agreements and signage that carry information significant to the patient are available and worded so as not to be confusing to the reader.

f) A facility shall not admit more patients than the number authorized by the license issued to it.

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.4030 Hospice Residence Nursing Care and Assistance in Activities of Daily Living

a) Through the hospice care team, the hospice shall be responsible for preparing, revising, documenting and implementing a single individual care plan for each patient.

b) Nursing care and assistance with activities of daily living shall be provided to each patient to meet the total care needs of the patient as determined by the care plan.

c) The hospice shall provide a sufficient number of properly trained and supervised staff to meet the needs of each patient. At least two staff, one of whom is a nurse,

must be on duty when patients are present. If one of the staff is not a registered nurse, a registered nurse must be on call.

d) Assistance with activities of daily living shall include, but not be limited to, the following:

1) Each patient shall have proper daily personal attention, including skin, nails, hair, and oral hygiene, in addition to treatment ordered by the attending physician.

2) Each patient shall have at least one complete bath and hair wash weekly, if physically able to tolerate, and as many additional baths and hair washes as necessary for satisfactory personal hygiene and comfort.

3) Each patient shall have clean, suitable clothing in order to be comfortable, sanitary, and free of odors.

4) Each patient shall have clean bed linens at least twice weekly and more often as necessary.

e) Patients shall be encouraged to administer their own medications. If a patient or family member cannot administer the medications, administration shall be by licensed medical or licensed nursing personnel in accordance with their respective licensing requirements.

f) Facilities shall develop and adhere to written medication policies and procedures addressing the procurement, storage, dispensing, administration and disposal of medications in compliance with federal, State and local regulations and the following:

1) A statement of who will administer medications, how the staff will supervise self-administration of medications, whether medications will be self-administered or a combination of staff and self-administration.

2) How the distribution and storage of medications will be handled.

3) If the facility has both staff-administered and family- or self-administered medications, the care plan shall specify who will determine which system each patient will use.

4) Procedures for recording medications that patients are taking.

5) Procedures for storage of prescription and nonprescription medications.

6) Method for refrigeration of biologicals.

7) Procedures for labeling medications.

g) Physicians' Orders & Telephone Orders

1) All medications shall be ordered by the attending~~a~~ physician. The order shall have the handwritten signature of the attending physician. The order shall~~will~~ contain the name of the drug, dose, route and frequency.

2) Telephone orders may be taken by a ~~registered~~ nurse. All such orders shall be immediately written in the client's medical plan of care record or a "telephone order form" and signed by the nurse taking the order. These orders shall be countersigned by the physician within 30~~10~~ working days.

3) Physicians' orders may be faxed.

h) All medications to be released to the patient or to the person responsible for the patient's care at the time of discharge, or when the patient is going to be temporarily out of the facility at medication time, shall be approved by the physician. A notation concerning their disposition shall be made in the patient's medical plan of care.

i) All Schedule II controlled substances shall be stored so that two separate locks using two different keys must be unlocked to obtain these substances. This may be accomplished by several methods, such as a locked cabinet within a locked medicine room; separately locked, securely fastened boxes (or drawers) within a locked medicine cabinet; locked portable medication carts that are stored in a locked medicine room when not in use; portable medication carts containing a separate locked area within the locked medication cart when such a cart is made immobile; or securely fastened boxes (or drawers) within a locked cabinet in the patient's room.

j) For all Schedule II substances, a controlled substance record shall be maintained

that lists on separate sheets, for each type and strength of Schedule II substance, the following information: date, time administered, name of client, dose, physician's name, signature of person administering dose and number of doses remaining.

k) Discontinued medications and medications of patients who have been discharged or who have died shall be disposed of in accordance with written policies and procedures. Medications for patients who have been temporarily transferred to home or hospital shall be kept in the facility until such time as the patient dies or is discharged from the facility. All expired medications shall be disposed of in accordance with written policies and procedures.

l) Medications for each patient shall be kept and stored in the containers in which they were originally received. Medications shall not be transferred between containers, except that a licensed nurse may remove medications from original containers and place them in other containers to be sent with the patient when the patient will be out of the facility at the time of scheduled administration of medications.

m) Medications prescribed for one patient shall not be administered to another patient.

n) If for any reason the attending~~a~~ physician's medication order cannot be followed, the attending physician shall be notified as soon as it is reasonable, depending upon the situation, and a notification made in the patient's plan of care.

o) Medication errors and drug reactions shall immediately be reported to the patient's attending physician. An entry thereof shall be made in the patient's medical record, and the error or reaction shall also be described in a separate report.

p) Patients for whom the attending physician has given permission to be totally responsible for their own medication shall maintain possession of the key or combination of the lock to their own medication storage area. A duplicate key or a copy of the combination shall be kept by the facility in a secure place, for emergency use.

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

Section 280.4040 Hospice Residence Operational Requirements

a) A supply of clean linen, washcloths and towels, available at all times and adequate for the number of residents, shall be provided. Storage, handling, processing and transportation of clean and soiled linen shall prevent cross-contamination and odors.

b) Nutritional Issues
If the integrated care plan identifies that client intake of adequate nutrition or hydration is a problem, a plan shall be developed that is consistent with the patient's advance directives or the patient's stated choices as noted in the clinical record.

c) Meal Service
Meals shall be scheduled in accordance with times customary in the community. Care shall be taken to ensure a variety of menus that recognize client preferences.

d) Food Service Sanitation

1) Food shall be free from spoilage, filth, and other contamination, and shall be safe for human consumption. Scheduled meals must be prepared in an inspected food service establishment.

2) Food must be protected from potential contamination while being stored, prepared, served, or transported. Potentially hazardous food shall be maintained at temperature in accordance with Section 750.10 of the Food Service Sanitation Code (77 Ill. Adm. Code 750).

3) Adequate refrigeration facilities and hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage.

4) No person shall work in food service while infected with a disease in a communicable form that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or while afflicted with a boil or infected wound or an acute respiratory infection.

5) Staff shall wash their hands thoroughly with soap and warm water before starting work, during work as often as necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Staff shall not use

tobacco in any form while engaged in food preparation or service nor while in any equipment or utensil washing or food preparation area.

6) Food contact surfaces shall be easily cleanable, smooth, free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult to clean internal corners and crevices. Nonfood contact surfaces of equipment shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and shall be of such material and in such repair as to be easily maintained in a clean, sanitary condition. Food contact and nonfood contact surfaces shall be maintained in a clean condition.

7) Equipment and utensils shall be washed, rinsed, and sanitized after each use. For manual cleaning and sanitizing, items will be washed in a hot detergent solution, rinsed with clear water, and sanitized by one of the following methods:

A) immersion for at least one-half minute in clean, hot water of at least 170º F; or

B) immersion for at least one minute in a clean solution of at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75º F; or

C) immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and a temperature of at least 75º F; or

D) immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75º F for one minute.

8) Mechanical cleaning and sanitizing may be done by spray-type or immersion dishwashing machines, or by any other type of machine or device demonstrated to thoroughly clean and sanitize equipment and utensils. Machines shall be installed and maintained in good repair, and shall be operated in accordance with the manufacturer's instructions. The

final sanitizing rinse shall be at least 180º F or equivalent. Refer to the Food Service Sanitation Code, Section 750.830(h), for specifics on mechanical sanitizing.

9) Utensils shall be air dried before being stored or shall be stored in a self-draining position.

10) Garbage and refuse shall be kept in durable, easily cleanable insect and rodent proof containers that do not leak or absorb liquid.

11) The facility shall be kept in such a condition as to prevent the harborage or feeding of insects and rodents. Screen doors shall be self-closing, and screening material shall not be less than 16 mesh to the inch.

12) Floors, floor coverings, walls, and ceilings shall be easily cleanable and maintained in good repair.

13) Poisonous or toxic materials shall be properly labeled. Insecticides and rodenticides and detergents, sanitizers, and other cleaning agents shall be stored physically separate from each other and not stored above or intermingled with food, food equipment, and utensils.

e) Physical Plant Requirements

1) New hospice residences shall submit drawings for the proposed facility for review by the Department, which shall be in compliance with the requirements of the National Fire Protection Association (NFPA) Standard No. 101 (2000~~1994~~), "Life Safety Code" Chapter 22 "Board and Care Homes, Impractical Evacuation Capabilities."

2) Existing hospice residences shall comply with the requirements of the National Fire Protection Association (NFPA) Standard No. 101 (2000~~1994~~) "Life Safety Code" Chapter 23 "Board and Care Homes, Impractical Evacuation Capabilities."

3) Each facility shall be in full compliance with local building codes and fire safety/protection requirements.

4) Exits shall not be blocked.

5) The following patient areas must be designed and equipped for the comfort and privacy of each patient and family members:

A) Physical space for private patient/family visiting;

B) Accommodations for family members to remain with the patient throughout the night;

C) Accommodations for family privacy after a patient's death;

D) A living room with a minimum area of 10 square feet per resident bed; and

E) A dining room with a minimum area of 10 square feet per resident bed.

6) Decor shall be homelike in design and function.

7) Not more than two people shall share a bedroom. No room commonly used for other purposes, including, but not limited to, a hall, stairway, attic, garage, storage area, shed or similar detached building, shall be used as a sleeping room for any client.

8) The patient rooms shall be designed and equipped for adequate nursing care and the comfort and privacy of patients and shall comply with the following:

A) Be equipped with or conveniently located near toilet and bathing facilities;

B) Be at or above grade level;

C) Contain a suitable bed for each patient and other appropriate furniture;

D) Have closet space that provides security and privacy for clothing and personal belongings;

E) Contain no more than 2 beds;

F) Measure at least 100 square feet for a single patient room or 80 square feet for each patient in a multi-patient room; and

G) Be equipped with a device for calling the staff member on duty.

9) Toilets and bathroom facilities shall be conveniently located. At least one toilet, washbasin, and bathtub or shower shall be provided per six clients. If the bathing area or toilet room contains more than one of each fixture, a means of allowing individual privacy shall be provided. Toilets and bathroom facilities shall be designed to provide the following:

A) An adequate supply of hot water at all times for patient use; and

B) Plumbing fixtures with control valves that automatically regulate the temperature of the hot water used by patients.

10) Isolation areas. The hospice must make provisions for isolating patients with infectious diseases.

11) Garbage shall be disposed of in accordance with State and local requirements. Potentially infectious medical wastes shall be disposed of in accordance with State and local requirements. All solid waste shall be handled in the facility to prevent transmission of disease. Sharps must be stored and disposed of in rigid, puncture-resistant containers.

12) Water supply, sewage disposal and plumbing systems shall comply with all applicable State and local codes and ordinances.

13) Hospice residences shall be limited to 16 resident beds.

(Source: Amended at 32 Ill. Reg. 2330, effective January 23, 2008)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Summer Bridges Program

2) Code Citation: 23 Ill. Adm. Code 232

3)

Section Numbers:	Adopted Action:
232.50	Amendment
232.60	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6

5) Effective Date of Amendments: January 22, 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 agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 5, 2007; 31 Ill. Reg. 13479

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

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.

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

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

15) Summary and Purpose of Amendments: The purpose of these amendments is to strengthen recipient districts' accountability with respect to implementation of the program, chiefly by providing for some quality assurance measures with respect to the teachers who are paid from the state funds provided. Salient among these requirements are following the established curriculum and sequence and planning to teach every day while the program is in session. The latter provision has been found to be critical,

because the Summer Bridges Program is compressed into a short period of time and each day of instruction is important to students' success.

The revision to Section 232.50(h) regarding the timetable for starting the program and the addition of material to Section 232.60 discussing which appropriation applies are clarifications of current policy rather than substantive amendments.

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

Myron Mason
Federal Grants and Programs
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

217/524-4832

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

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

PART 232
SUMMER BRIDGES PROGRAM

Section

232.10 Purpose and Applicability
232.20 Eligible Applicants
232.30 Application Procedure
232.40 Allocation of Funds
232.50 Program Specifications
232.60 Local Match; Use of State Funds
232.70 Reporting Requirements
232.APPENDIX A Curriculum and Instruction Frameworks
232.APPENDIX B Required Materials for the Program

AUTHORITY: Implementing Section 10-20.9a of the School Code [105 ILCS 5/10-20.9a] and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6].

SOURCE: Adopted at 31 Ill. Reg. 2461, effective January 16, 2007; amended at 32 Ill. Reg. 2386, effective January 22, 2008.

Section 232.50 Program Specifications

a) Eligibility for services under this Part shall not be limited to students who attend the particular attendance centers whose performance led to the district's eligibility under Section 232.20 of this Part. Any student in an eligible district may be served, provided that he or she was enrolled in pre-kindergarten, kindergarten, or any of Grades 1 through 6 in the school year immediately preceding the summer when the program is offered and:

1) did not meet State standards in reading, as evidenced by the relevant score attained on the State assessment required pursuant to Section 2-3.64 of the School Code [105 ILCS 5/2-3.64]; or

2) was recommended for retention in grade; or

3) was referred to the program by his or her teacher based on the results of a locally determined reading assessment or other factors such as poor grades or a high rate of absenteeism.

b) Funding under this Part shall be used only to provide a remedial summer program consisting of no fewer than 90 hours of instruction to each student served and addressing the components of the literacy framework displayed in Appendix A to this Part. Each district operating the program shall be required to purchase or demonstrate the availability of the materials listed in Appendix B to this Part.

c) The number of sites at which the program is offered within any district shall be limited to the number of sites whose performance led to the district's eligibility for funding under Section 232.20 of this Part. The program may, however, be conducted at sites other than those whose performance led to the district's eligibility.

d) Except as otherwise specified in subsection (e) of this Section, no fewer than 12 and no more than 15 students shall be served in each class for Grades 1 through 6, and no fewer than seven and no more than 10 students shall be served in each class for pre-kindergarten and kindergarten. Each district shall report its enrollment count by grade level on the sixth day of attendance in the program and shall consolidate classes as needed to achieve class sizes within these ranges. The services of teachers in excess of the number required for the applicable class sizes shall not be paid for with funding provided under this Part.

e) In order to respond to developments that may occur after the sixth day of attendance, a district may seek approval from the State Superintendent of Education to add no more than two students to any class in excess of the applicable maximum. The State Superintendent shall approve a district's request if the Superintendent determines that doing so is necessary for reasons of cost-effectiveness or to avoid a disruption in learning opportunities for students, provided that the teacher responsible for the class has consented to the addition of the students.

f) Each district shall prepare a job description for the teachers who will be employed to provide instruction in the Summer Bridges Program. If the district executes individual contracts with the teachers, the contracts shall include the job description or incorporate it by reference. If the district does not execute

individual contracts with the teachers, the district shall require a signed affirmation from each, acknowledging the obligations established in the job description. Each job description shall include at least the requirements set forth in this subsection (f).

1) To conduct a parent orientation prior to the beginning of the program.

2) To participate in all required planning and professional development sessions and activities.

3) To set up the classroom for engaged and cooperative learning, including learning stations or centers.

4) To establish classroom rules in collaboration with the students in the class.

5) To prepare and submit daily lesson plans on a weekly basis.

6) To deliver the established curriculum in accordance with the framework and use the materials provided.

7) To administer the required assessments and report on the results in accordance with the prescribed timetable.

8) To collaborate in the program evaluation effort.

9) To be absent only in response to unforeseen circumstances (for example, no absences shall be permitted for vacation, attendance at conferences, or participation in activities that are not of an emergency nature).

g) Each teacher, paraprofessional, and administrator employed in the program shall be provided with, and shall be required to participate in, 30 hours of professional development.

1) Three hours of professional development shall occur in the time period after the end of the school year and prior to the start of the program and shall be devoted to setting up the learning environment, administering an individual reading inventory, and orientation to the Summer Bridges Program.

2) Twelve hours of professional development shall occur prior to or during the course of the program and shall be devoted to the learning environment, language development and word knowledge, fluency, comprehension, writing, and classroom-based assessment appropriate to the grade level to be served by the participating teachers.

3) Fifteen hours of professional development shall be devoted to mathematics concepts and games, additional literacy strategies, problem-solving, exchange of strategies, activities, and methods among teachers, and analysis of the results of the individual reading inventory.

h)~~g)~~ No program funded under this Part shall begin sooner than five business days after the end of the school year unless approved in advance by the State Superintendent of Education. Approval shall be granted only when the school year has been extended to make up days missed due to severe weather or other emergencies.

i)~~h)~~ Each district funded under this Part shall assess students' growth in reading prior to and following their participation in the program. No fewer than 20 percent of the students from each of Grades 2 through 6 and no fewer than 20 percent of the total group of students from pre-kindergarten, kindergarten, and Grade 1 shall participate in an assessment prescribed by the State Superintendent as appropriate to their respective grade levels. The results of these assessments shall be compiled to form part of each district's summative report under Section 232.70 of this Part.

1) Each student whose results are included in the report shall have achieved an attendance rate of at least 80 percent.

2) The pre-test shall be separated from the post-test by no fewer than 18 days of attendance.

(Source: Amended at 32 Ill. Reg. 2386, effective January 22, 2008)

Section 232.60 Local Match; Use of State Funds

The Summer Bridges Program is typically operated in the very late portion of one fiscal year and sometimes concludes in the early weeks of the subsequent fiscal year. The required components

of each year's program (e.g., instructional materials, staff time, professional development) shall be paid for out of the later fiscal year's appropriation.

a) Each district that receives funding pursuant to this Part shall be required to contribute a matching share equivalent to 20 percent of the amount awarded by the State Board of Education (ISBE). The district's share may consist of funds, in-kind contributions, or a combination of these, provided that all amounts are related to delivery of the program (e.g., transportation expenses, janitorial services, expenditures for utilities, salary and benefits for an administrator or coordinator, or food service).

b) Each district shall allocate the State funds provided for the program within the range specified in this subsection (b) unless an exception is granted as discussed in subsection (c) of this Section.

1) It is expected that between 45 and 55 percent of the funds provided by ISBE will be used for salaries and benefits related to the employment of instructional and support personnel for the program.

2) It is expected that approximately 20 percent of the funds provided by ISBE will be needed for supplies and materials directly related to the curriculum delivered and not otherwise readily available within the district. Each district shall use no less than $1,000 of its grant allocation per classroom for this purpose.

3) It is expected that approximately 20 percent of the funds provided to each recipient will be used for professional development of the certified and paraprofessional staff who provide instruction and instructional support in the program. All professional development shall be delivered by providers approved for purposes of certificate renewal (see 23 Ill. Adm. Code 25, Subpart J).

4) Up to ten percent of the funds provided to each recipient may be used to offset expenses for administration or program coordination, provided that no support under this program shall be provided for personnel expenditures relative to any staff member employed on an 11- or 12-month contract with the recipient district.

c) A district may expend more than 55 percent of the funds provided under this Part for personnel-related costs only if approved by the State Superintendent of Education based upon evidence of other resources that will be used to ensure the availability of the materials required under Appendix B of this Part and the provision of the professional development required under Section 232.50(f) of this Part.

d) Limitations on Specific Expenditures

1) Grant funds shall not be used to provide more than 130 hours' compensation for any teacher in the program.

2) Grant funds shall not be used for costs associated with employing more than one support staff member (clerical or paraprofessional) for each four teachers in the program.

3) A full-time program coordinator shall be supported only for programs enrolling at least 1,000 students.

4) Grant funds may be used only to support classroom-based instruction and shall not be used for field trips or experiences.

5) No food or food service expenditures shall be supported with funds provided under this Part.

6) No equipment, software, or software licenses shall be purchased with funds provided under this Part.

(Source: Amended at 32 Ill. Reg. 2386, effective January 22, 2008)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Veterans' Home Nurse Loan Repayment Program

2) Code Citation: 23 Ill. Adm. Code 2757

3)

Section Numbers:	Adopted Action:
2757.10	New Section
2757.20	New Section
2757.30	New Section

4) Statutory Authority: Implementing the Veterans' Home Nurses' Loan Repayment Act [110 ILCS 972] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) Effective Date of Rules: February 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 these 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: September 28, 2007; 31 Ill. Reg. 13446

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

11) Differences between proposed and final version: The only changes made were non-substantive in nature.

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

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

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

15) Summary and Purpose of Rulemaking: This Part is adopted to implement the statutory changes contained in Public Act 95-576, which created this new program. These adopted rules govern the administration of the new Veterans' Home Nurse Loan Repayment

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

Program. The rulemaking sets forth the applicant eligibility requirements and program procedures.

16) Information and questions regarding these Adopted Rules shall be directed to:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

847/948-8500, ext. 3706
email: lhynes@isac.org

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2757
VETERANS' HOME NURSE LOAN REPAYMENT PROGRAM

Section
2757.10 Summary and Purpose
2757.20 Applicant Eligibility
2757.30 Program Procedures

AUTHORITY: Implementing the Veterans' Home Nurses' Loan Repayment Act [110 ILCS 972] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Emergency rules adopted at 31 Ill. Reg. 13449, effective September 24, 2007, for a maximum of 150 days; adopted at 32 Ill. Reg. 2394, effective February 1, 2008.

Section 2757.10 Summary and Purpose

a) The Veterans' Home Nurse Loan Repayment Program is intended to pay eligible educational loans as an incentive for nurses to pursue and continue their careers at State of Illinois Veterans' Homes.

b) This Part governs the Veterans' Home Nurse Loan Repayment Program. Additional rules and definitions are contained in General Provisions (23 Ill. Adm. Code 2700).

Section 2757.20 Applicant Eligibility

a) A qualified applicant shall be:

1) a resident of Illinois;

2) a United States citizen or eligible noncitizen;

3) an individual who, for each year during which a grant is received, fulfills a separate 12 month period as a registered professional nurse or licensed practical nurse in a State of Illinois Veterans' Home;

4) a borrower with an outstanding balance due on an eligible educational loan;

5) an individual who is not in default on a federally guaranteed educational loan and does not owe a refund on a grant or scholarship program administered by ISAC;

6) a nurse who meets licensing requirements of the Department of Financial and Professional Regulation; and

7) a nurse who has completed the prescribed employment probationary period and whose employment is in good standing as determined by the Department of Veterans' Affairs.

Section 2757.30 Program Procedures

a) Eligible educational loans include:

1) Stafford Loans;

2) Graduate PLUS Loans;

3) consolidation loans;

4) nursing student loans;

5) Supplemental Loans for Students;

6) alternative loans; and

7) other types of government and institutional loans used for nursing education expenses.

b) Non-eligible loans include:

1) credit card payments;

2) Parent PLUS Loans;

3) loans that have been paid in full;

4) loans not governed by State or federal regulations obtained for the purpose of lending from private institutions or family members;

5) any portion of a consolidated loan that cannot be directly attributed to the applicant; and

6) any student loans that can be forgiven by a state or federal agency or a lending institution through a comparable educational debt repayment or forgiveness program.

c) All applicants annually must complete an ISAC application for the loan repayment program.

1) Applications are available at all State of Illinois Veterans' Homes, ISAC's web site, and ISAC's Springfield, Deerfield and Chicago offices.

2) If the application is incomplete, ISAC will notify the applicant, who will have an opportunity to furnish the missing information. The application will only be considered for processing as of the date the application is complete and received at ISAC's Deerfield office.

3) Renewal applicants may be required to submit a history of prior awards in order to show program proceeds were used for eligible educational loans.

d) Grant assistance under this program may be received for up to 4 years.

e) ISAC shall select the recipients from among those who have submitted complete applications, including qualified new applicants and those who filed timely renewal applications and have supplied information required in subsection (c).

f) The total number of grants awarded in a given fiscal year is contingent upon available funding. If funding is insufficient to pay all eligible applicants, awarding will be based on the date the completed application is received in

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

ISAC's Deerfield office. Preference may be given to renewal applicants provided that the recipient continues to meet the eligibility requirements.

g) The amount repaid by ISAC to the loan holder shall be no more than the borrower's remaining balance on eligible educational loans and shall not exceed $5,000 per year.

h) Proceeds will be remitted directly to the holder of the loans to be repaid.

i) The recipient and loan holder shall submit information for eligible educational loans in sufficient time for ISAC to make payments for each year in which the funds are awarded.

j) If the loan holder receives an overpayment, the loan holder shall return the amount of the overage to ISAC. A supplemental request must be made by the recipient and processed by ISAC for any funds to be paid to another holder.

k) When multiple loans are held by a single lending institution, the loan holder shall distribute the payment to one loan until paid in full.

l) When possible, all loans held at a single lending institution shall be paid in full before monies are distributed to another loan holder.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
9:00 A.M.
FEBRUARY 14, 2008

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

Children and Family Services

1. Permanency Planning (89 Ill. Adm. Code 315)
   -First Notice Published: 31 Ill. Reg. 8384 – 6/15/07
   -Expiration of Second Notice: 2/24/08

2. Confidentiality of Personal Information of Persons Serviced by the Department of Children and Family Services (89 Ill. Adm. Code 431)
   -First Notice Published: 31 Ill. Reg. 9708 – 7/13/07

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

-Expiration of Second Notice: 2/24/08

Council on Developmental Disabilities

3. Americans With Disabilities Act Grievance Procedure (4 Ill. Adm. Code 800)
-First Notice Published: 31 Ill. Reg. 15891 – 11/30/07
-Expiration of Second Notice: 3/8/08

Education

4. Certification (23 Ill. Adm. Code 25)
-First Notice Published: 31 Ill. Reg. 13456 – 10/5/07
-Expiration of Second Notice: 3/9/08

5. Providers of Supplemental Educational Services (23 Ill. Adm. Code 675)
-First Notice Published: 31 Ill. Reg. 13487 – 10/5/07
-Expiration of Second Notice: 3/9/08

Emergency Management Agency

6. Use of X-Rays in the Healing Arts Including Medical, Dental, Podiatry, and Veterinary Medicine (32 Ill. Adm. Code 360)
-First Notice Published: 31 Ill. Reg. 10742 – 8/3/07
-Expiration of Second Notice: 2/22/08

Financial and Professional Regulation

7. Optometric Practice Act of 1987 (68 Ill. Adm. Code 1320)
-First Notice Published: 31 Ill. Reg. 15929 – 11/30/07
-Expiration of Second Notice: 3/2/08

8. Pharmacy Practice Act of 1987 (68 Ill. Adm. Code 1330)
-First Notice Published: 31 Ill. Reg. 15948 – 11/30/07
-Expiration of Second Notice: 3/2/08

Healthcare and Family Services

9. Medical Assistance Programs (89 Ill. Adm. Code 120)
-First Notice Published: 31 Ill. Reg. 15424 – 11/26/07
-Expiration of Second Notice: 2/27/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

Health Facilities Planning Board

10. Health Facilities Planning Procedural Rules (77 Ill. Adm. Code 1130)
-First Notice Published: 31 Ill. Reg. 14198 – 10/12/07
-Expiration of Second Notice: 3/9/08

Human Services

11. Child Care (89 Ill. Adm. Code 50)
-First Notice Published: 31 Ill. Reg. 13270 – 9/21/07
-Expiration of Second Notice: 2/27/08

12. Fiscal/Administrative Recordkeeping and Requirements (89 Ill. Adm. Code 509)
-First Notice Published: 31 Ill. Reg. 14208 – 10/12/07
-Expiration of Second Notice: 2/27/08

13. Grants and Grant Funds Recovery (89 Ill. Adm. Code 511)
-First Notice Published: 31 Ill. Reg. 14213 – 10/12/07
-Expiration of Second Notice: 2/27/08

Natural Resources

14. Disabled Hunting Method Authorizations (17 Ill. Adm. Code 760)
-First Notice Published: 31 Ill. Reg. 15019 – 11/9/07
-Expiration of Second Notice: 2/22/08

15. Sport Fishing Regulations for the Waters of Illinois (17 Ill. Adm. Code 810)
-First Notice Published: 31 Ill. Reg. 15142 – 11/16/07
-Expiration of Second Notice: 2/20/08

Public Health

16. Hospital Licensing Requirements (77 Ill. Adm. Code 250)
-First Notice Published: 31 Ill. Reg. 3701 – 3/9/07
-Expiration of Second Notice: 2/29/08

17. Hospital Licensing Requirements (77 Ill. Adm. Code 250)
-First Notice Published: 31 Ill. Reg. 7240 – 5/18/07
-Expiration of Second Notice: 2/29/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

18. Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
-First Notice Published: 31 Ill. Reg. 3722 – 3/9/07
-Expiration of Second Notice: 3/8/08

19. Control of Tuberculosis Code (77 Ill. Adm. Code 696)
-First Notice Published: 31 Ill. Reg. 3940 – 3/9/07
-Expiration of Second Notice: 3/6/08

20. Health Care Professional Credentials Data Collection Code (77 Ill. Adm. Code 965)
-First Notice Published: 31 Ill. Reg. 3971 – 3/9/07
-Expiration of Second Notice: 2/29/08

Revenue

21. Income Tax (86 Ill. Adm. Code 100)
-First Notice Published: 31 Ill. Reg. 15744 – 11/26/07
-Expiration of Second Notice: 2/27/08

22. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
-First Notice Published: 31 Ill. Reg. 15950 – 11/30/07
-Expiration of Second Notice: 2/28/08

State Fire Marshal

23. Fire Equipment Distributor and Employee Standards (41 Ill. Adm. Code 251)
-First Notice Published: 31 Ill. Reg. 13290 – 9/21/07
-Expiration of Second Notice: 2/16/08

24. Fire Equipment Administrative Procedures (41 Ill. Adm. Code 280)
-First Notice Published: 31 Ill. Reg. 13300 – 9/21/07
-Expiration of Second Notice: 2/16/08

Teachers' Retirement System

25. The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)
-First Notice Published: 31 Ill. Reg. 15988 – 11/30/07
-Expiration of Second Notice: 2/28/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

EMERGENCY RULEMAKINGS

Commerce Commission

26. Net Metering (83 Ill. Adm. Code 465)
-Notice Published: 32 Ill. Reg. 202 – 1/4/08

Healthcare and Family Services

27. Illinois Cares Rx Program (89 Ill. Adm. Code 119)
-Notice Published: 32 Ill. Reg. 373 – 1/11/08

28. Medical Payment (89 Ill. Adm. Code 140)
-Notice Published: 32 Ill. Reg. 383 – 1/11/08

29. Reimbursement for Nursing Costs of Geriatric Facilities (89 Ill. Adm. Code 147)
-Notice Published: 32 Ill. Reg. 415 – 1/11/08

30. Hospital Services (89 Ill. Adm. Code 148)
-Notice Published: 32 Ill. Reg. 518 – 1/11/08

31. Hospital Reimbursement Changes (89 Ill. Adm. Code 152)
-Notice Published: 32 Ill. Reg. 529 – 1/11/08

32. Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153)
-Notice Published: 32 Ill. Reg. 535 – 1/11/08

33. Child Support Enforcement (89 Ill. Adm. Code 160)
-Notice Published: 32 Ill. Reg. 543 – 1/11/08

Labor

34. Employee Classification (56 Ill. Adm. Code 240)
-Notice Published: 32 Ill. Reg. 574 – 1/11/08

Secretary of State

35. Uniform Partnership Act (Repealer) (14 Ill. Adm. Code 165)
-Notice Published: 32 Ill. Reg. 901 – 1/18/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

36. Revised Uniform Limited Partnership Act (Repealer) (14 Ill. Adm. Code 170)
-Notice Published: 32 Ill. Reg. 910 – 1/18/08

37. Issuance of Licenses (92 Ill. Adm. Code 1030)
-Notice Published: 32 Ill. Reg. 208 – 1/4/08

PEREMPTORY RULEMAKINGS

Agriculture

38. Meat and Poultry Inspection Act (8 Ill. Adm. Code 125)
-Notice Published: 32 Ill. Reg. 590 – 1/11/08

Central Management Services

39. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 32 Ill. Reg. 598 – 1/11/08

EXEMPT RULEMAKING

Pollution Control Board

40. Definitions and General Provisions (35 Ill. Adm. Code 211)
-Proposed Date: 2/7/07
-Adopted Date: 2/1/08

ADOPTED RULEMAKINGS

Commerce Commission

41. Organization and Public Information (2 Ill. Adm. Code 1700)
-Notice Published: 31 Ill. Reg. 16734 – 12/21/07

Procurement Policy Board

42. General Policies (2 Ill. Adm. Code 3002)
-Notice Published: 32 Ill. Reg. 1153 – 1/25/08

AGENCY RESPONSES

JOINT COMMITTEE ON ADMINISTRATIVE RULES
FEBRUARY AGENDA

Agriculture

43. Halal Food Disclosure (8 Ill. Adm. Code 190; 31 Ill. Reg 2053)

Financial and Professional Regulation

44. Supplemental Reports for Accident and Health Insurers (50 Ill. Adm. Code 937; 31 Ill. Reg. 10546)

Secretary of State

45. Uniform Partnership Act (1997) (14 Ill. Adm. Code 166; 31 Ill. Reg. 12690)

46. Uniform Limited Partnership Act (2001) (14 Ill. Adm. Code 171; 31 Ill. Reg. 12703)

State Board of Elections

47. Miscellaneous (26 Ill. Adm. Code 207; 31 Ill. Reg. 12576)

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 January 22, 2008 through January 28, 2008 and have been scheduled for review by the Committee at its February 14, 2008 or March 11, 2008 meetings. 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
3/6/08	Department of Public Health, Control of Tuberculosis Code (77 Ill. Adm. Code 696)	3/9/07 31 Ill. Reg. 3940	2/14/08
3/8/08	Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690)	3/9/07 31 Ill. Reg. 3722	2/14/08
3/8/08	Illinois Council on Developmental Disabilities, Americans With Disabilities Act Grievance Procedure (4 Ill. Adm. Code 800)	11/30/07 31 Ill. Reg. 15891	2/14/08
3/9/08	Health Facilities Planning Board, Health Facilities Planning Procedural Rules (77 Ill. Adm. Code 1130)	10/12/07 31 Ill. Reg. 14198	2/14/08
3/9/08	State Board of Education, Certification (23 Ill. Adm. Code 25)	10/5/07 31 Ill. Reg. 13456	2/14/08
3/9/08	State Board of Education, Providers of Supplemental Educational Services (23 Ill. Adm. Code 675)	10/5/07 31 Ill. Reg. 13487	2/14/08
3/12/08	Executive Ethics Commission, Organization,	5/11/07	3/11/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Information, Rulemaking and Hearings (2 Ill. Adm. Code 1620)	31 Ill. Reg. 6754

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the Fourth Quarter of 2007. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Apportionment – Sales Factor
Assessment
Bingo, Pull Tabs And Charitable Games
Credits – Film Credit
Information Reports
Partnerships
Public Law 86-272/Nexus
Residency/Nonresidency
S Corporations
Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1.00 per opinion plus 50 cents per page for each page over one.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov.

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006 are available for $3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for $4.00.

3. Name and address of person to contact concerning this information:

Linda Settle
Illinois Department of Revenue
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794

217/782-7055

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

APPORTIONMENT – SALES FACTOR

IT 07-0040-GIL 12/27/2007 The income producing activity of a chain of concerts is generally carried out where the concerts are performed.

ASSESSMENT

IT 07-0035-GIL 11/08/2007 Claiming a subtraction on the wrong line of a return is a mathematical error that must be denied unless the taxpayer can demonstrate the correct nature and amount of the subtraction.

BINGO, PULL TABS AND CHARITABLE GAMES

IT 07-0038-GIL 12/18/2007 Explanation of "bingo equipment" as defined in recent legislation.

CREDITS – FILM CREDIT

IT 07-0003-PLR 12/20/2007 The recipient of a transferred film credit is entitled to claim the credit in the year the credit is awarded, not the subsequent year in which it is transferred.

INFORMATION REPORTS

IT 07-0037-GIL 12/07/2007 Illinois does not currently require filing of copies of Forms W-2 with the Department.

PARTNERSHIPS

IT 07-0034-GIL 10/25/2007 A small partnership exempt from the partnership procedures created by the Tax Equity and Fiscal Responsibility Act is a partnership for Illinois replacement tax purposes.

PUBLIC LAW 86-272/NEXUS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

IT 07-0036-GIL	11/09/2007	Nexus issues are not generally appropriate matters for rulings.

RESIDENCY/NONRESIDENCY

IT 07-0041-GIL	12/31/2007	Rulings on residency are not appropriate for general information letters.

S CORPORATIONS

IT 07-0039-GIL	12/19/2007	An electing small business trust is, as a shareholder in a Subchapter S corporation, taxable on its share of the business income apportioned to Illinois by the corporation.

PROCLAMATIONS

2007-421 (Revised)
Chicago Business Opportunity Days

WHEREAS, the 41st Annual Chicago Business Opportunity Fair (CBOF), which is of special interest to Illinois-based businesses, will be held April 14-16, 2008; and

WHEREAS, the fair will provide minority suppliers and purchasing personnel from major buying organizations the opportunity to meet and exchange information about mutual buying and selling needs; and

WHEREAS, Frederick H. Waddell, President and Chief Executive Officer, Northern Trust Corporation, will serve as Chairperson of the fair's Planning Committee. Haves McNeal, President and CEO of Creative Printing Services, Inc. and Tanya Griffin, Manager of International Truck and Engine Corporation are Co-Chairs; and

WHEREAS, the 41st Anniversary of the Chicago Business Opportunity Fair assists in advancing the year-round efforts of the Chicago Minority Business Development Council, Inc. an organization devoted to stimulating minority business development and purchasing in Chicago and throughout the State of Illinois; and

WHEREAS, Mike Anguiano, Chief Executive Officer, CVM Solutions, based in Oak Brook, is the Chairman of the CBOF kick-off Minority Business Enterprise Input Committee (MBEIC) Awards Luncheon on April 14, 2008. This event will recognize the MBE's corporate and government buyers and organizations that have shown exceptional commitment to business development:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 14-16, 2008 as **CHICAGO BUSINESS OPPORTUNITY DAYS** in Illinois in recognition of the 41st anniversary of the Chicago Business Opportunity Fair.

Issued by the Governor December 12, 2007
Filed by the Secretary of State January 25, 2008

2008-15
Days To Commemorate the Honorable John H. Stroger

WHEREAS, on January 18, 2008, the people of Illinois lost one of their most faithful, respected and trusted public servants; The Honorable John H. Stroger, Jr., the first African-American Cook County Board President, passed away at the age of 78; and

WHEREAS, born May 19, 1929 in Helena, Arkansas, The Honorable John Stroger relocated to Chicago from Louisiana in 1953 after graduating with a B.S. in business administration at Xavier University. He quickly got involved in local Democratic politics on the South Side of Chicago; and

WHEREAS, after only one year, The Honorable John Stroger was appointed as an assistant auditor with the Municipal Court of Chicago. He then served as personnel director for the Cook County Jail from 1955 to 1961; and

WHEREAS, in 1965, The Honorable John Stroger graduated DePaul University College of Law. While still a student, he worked for the financial director of the State of Illinois; and

WHEREAS, in 1970, The Honorable John Stroger was elected to the Cook County Board of Commissioners. During his tenure, he championed the construction of a new public hospital for years and made the issue the focus of his agenda after he was elected board president in 1994; and

WHEREAS, it was during The Honorable John Stroger's time at the helm of the county that the aged and outmoded Cook County Hospital was replaced by a new, modern facility, which the County Board named in honor of President Stroger while construction was ongoing; and

WHEREAS, The Honorable John Stroger suffered a debilitating stroke a week before his March 2006 Democratic primary victory for reelection, from which he never recovered; and

WHEREAS, The Honorable John Stroger never forgot where he came from or lost sight of whose side he was on. His death is a great loss for Cook County and the State of Illinois:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim January 18-23, 2008 as **DAYS TO COMMEMORATE THE HONORABLE JOHN H. STROGER** in Illinois, and order all State facilities to fly U.S. and Illinois flags at half-mast until sunset on January 23.

Issued by the Governor January 22, 2008
Filed by the Secretary of State January 25, 2008

2008-16
Entrepreneurship Week

WHEREAS, entrepreneurship is vital to Illinois' growth and prosperity; and

WHEREAS, most of the new jobs created throughout the United States in the past decade have come from the creative efforts of entrepreneurs and small businesses; and

WHEREAS, more than 70 percent of young Americans envision starting a business or doing something entrepreneurial as adults; and

WHEREAS, since taking office in 2003, my administration has made an unprecedented commitment to nurturing our entrepreneurs, opening up 19 entrepreneurship centers throughout Illinois to turn promising ideas into promising companies and new jobs; and

WHEREAS, over the past four years, we have invested more than $47 million through the Illinois Entrepreneurship Network that has helped small companies generate almost $2.2 billion in government contracts and international sales and secure almost $429 million in financing; and

WHEREAS, a broad coalition of partner organizations in Illinois and throughout the United States is actively engaged in enhancing entrepreneurial opportunities through collaboration and cooperation with the national Consortium for Entrepreneurship Education; and

WHEREAS, encouraging youth to be excited about entrepreneurship and working to expand the knowledge, skills and attitudes of Illinois' youth and adults to be successful entrepreneurs are crucial to the long-term growth of local communities, Illinois and the United States; and

WHEREAS, Illinois' Career and Technical Student Organizations offer an array of programs, activities and competitive events focused on entrepreneurship; and

WHEREAS, in 2006 the United States House of Representatives established National Entrepreneurship Week to support the goals and ideals of entrepreneurship in America; and

WHEREAS, National Entrepreneurship Week provides an opportunity to focus on the innovative ways in which entrepreneurship education can bring together the core academic, technical and problem solving skills essential for future entrepreneurs and successful workers in future workplaces:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 23 through March 1, 2008 as **ENTREPRENEURSHIP WEEK** in Illinois.

Issued by the Governor January 22, 2008
Filed by the Secretary of State January 25, 2008

2008-17
Pfc. Danny L. Kimme

WHEREAS, on Wednesday, January 16, Army Private First Class Danny L. Kimme, 27, of Fisher, Illinois died of wounds from combat operations in Balad, Iraq; and

WHEREAS, Pfc. Kimme was among three soldiers killed after they were attacked by grenade and small arms fire. The other soldiers were 27-year-old Pfc. David Sharrett of Oakton, Virginia and 21-year-old Specialist john Sigsbee of Waterville, New York; and

WHEREAS, Pfc. Kimme was assigned to the 1st Squadron, 32nd Cavalry Regiment, 1st Brigade Combat Team, 101st Airborne Division (Air Assault) in Fort Campbell, Kentucky; and

WHEREAS, a funeral will be held on Saturday, January 26 for Pfc. Kimme, who is survived by his wife, Corinne, his mother, Patricia, and his father, Douglas:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby order all State facilities to fly their flags at half-staff from sunrise on January 24, 2008 until sunset on January 26, 2008 in honor and remembrance of Pfc. Kimme, whose selfless service and sacrifice is an inspiration.

Issued by the Governor January 23, 2008
Filed by the Secretary of State January 25, 2008

2008-18
Adlai Stevenson Day

WHEREAS, The Honorable Adlai Stevenson was born February 5, 1900 in Los Angeles, California and raised in Bloomington, Illinois. After his death on July 14, 1965, he was interred in the family plot at Evergreen Cemetery in Bloomington; and

WHEREAS, early in his career, The Honorable Adlai Stevenson joined and served with the United States Navy, wrote for the Bloomington Daily Pantagraph, and graduated from Northwestern University School of Law; and

WHEREAS, The Honorable Adlai Stevenson also served his country in numerous other posts that included representing the United States at the 1945 San Francisco Conference that established the United Nations. Under the Kennedy administration, he served as the U.S. Ambassador to the U.N.; and

WHEREAS, in 1948, The Honorable Adlai Stevenson was elected Governor of Illinois in a landslide election, and quickly gained a national reputation as a popular and intelligent public speaker. His most notable accomplishments as Governor included reorganizing the state police, cracking down on illegal gambling and improving state highways; and

WHEREAS, The Honorable Adlai Stevenson ran for President and was twice selected as the Democratic Party nominee – once in 1952 and again in 1956. Although he lost both elections, they earned him a tremendous amount of admiration and respect for the eloquence with which he campaigned; and

WHEREAS, The Honorable Adlai Stevenson is a notable Illinoisan, one to be admired and respected for the courage and dignity that he displayed throughout his distinguished political career:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 5, 2008 as **ADLAI STEVENSON DAY** in Illinois for the commemoration of his birthday, and in honor and remembrance of his amazing legacy of service.

Issued by the Governor January 23, 2008
Filed by the Secretary of State January 25, 2008

2008-19
Women's Healthy Heart Month

WHEREAS, heart disease is the leading cause of death for American women, claiming the lives of nearly 500,000 women per year, at a rate of almost one per minute; and

WHEREAS, in Illinois alone, the year 2004 saw 14,534 deaths in women due to diseases of the heart; and

WHEREAS, the majority of women are not aware of the risk factors for a heart attack, nor are they aware of the signs and symptoms of a heart attack; and

WHEREAS, risk factors for a heart attack are: tobacco use, high blood cholesterol, high blood pressure, physical inactivity, diabetes and obesity; and

WHEREAS, symptoms of heart attack are: uncomfortable pressure, squeezing, fullness or pain in the center of the chest that lasts more than a few minutes, or goes away and comes back; pain or discomfort in one or both arms, the back, neck, jaw, stomach; shortness of breath along with, or before, chest discomfort; and cold sweat, nausea or lightheadedness; and

WHEREAS, it is critical that we, as a country and state, work to empower women and increase their awareness of the many things they can do to reduce their risk of heart disease; and

WHEREAS, this includes exercising regularly, eating healthy meals and snacks, loving their body and taking time for themselves; and

WHEREAS, February of each year is nationally recognized as American Heart Month, Go Red for Women, and this year in Illinois, we want to give special emphasis to women's heart health by declaring that February 2008 be Women's Healthy Heart Month; and

WHEREAS, in addition, on February 1, 2008, we are proud to join various heart health organizations across the country to participate in National Wear Red Day to encourage people to wear red in support of the continued efforts to raise awareness of heart disease among women in Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim the month of February 2008 as **WOMEN'S HEALTHY HEART MONTH** in Illinois, and urge all citizens, especially women, to familiarize themselves with the signs, symptoms and treatments for heart disease, as well as the steps they can take to ensure good heart health.

Issued by the Governor January 24, 2008
Filed by the Secretary of State January 25, 2008

2008-20
Illinois Museum Day

WHEREAS, museums have long been places where cultural and natural history have been preserved for all people to appreciate; and

WHEREAS, museums provide unique educational opportunities because they serve as portals to the past by preserving and studying important artifacts and providing special programs, exhibits and activities which enhance the public knowledge of history, the arts, science, and industry. This allows people of all ages to learn about the past, examine the present and look to the future; and

WHEREAS, Illinois museums serve as economic engines for our state by providing employment for thousands of our citizens and attracting tourists from across the country; and

WHEREAS, on March 13th, the Illinois Association of Museums will hold their 10th annual Museum Day event. On this day, museums from across the state will set up exhibits in the Capitol rotunda to raise awareness of the important role museums play in our society:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 13, 2008 as **ILLINOIS MUSEUM DAY** and encourage all citizens to recognize the importance of preserving these valuable institutions.

Issued by the Governor January 24, 2008
Filed by the Secretary of State January 25, 2008

2008-21
A Day to Commemorate the Honorable Eugene Sawyer

WHEREAS, The Honorable Eugene Sawyer was born in Greensboro, Alabama on September 3, 1934 to Bernice and Eugene Sawyer, Sr.; and

WHEREAS, in 1956, The Honorable Eugene Sawyer graduated from Alabama State University in Montgomery and went on to teach chemistry and math in Prentiss, Mississippi; and

WHEREAS, in 1957, The Honorable Eugene Sawyer moved to Chicago and quickly got involved in local Democratic politics; and

WHEREAS, in 1971, The Honorable Eugene Sawyer was elected as an alderman of the 6th Ward and served in that capacity until 1987 when Chicago Mayor Harold Washington unexpectedly died in office; and

WHEREAS, The Honorable Eugene Sawyer was elected to fill out Mayor Harold Washington's term by other members of Chicago's City Council. He was the second African-American to serve as mayor; and

WHEREAS, as mayor, The Honorable Eugene Sawyer developed cooperative partnerships with businesses. He also managed to pass several major initiatives begun by Washington, including an ethics ordinance to prevent corruption and one of the first human rights ordinances that protected gays and lesbians from discrimination; and

WHEREAS, after completing Mayor Harold Washington's term, The Honorable Eugene Sawyer retired from politics and got involved in the business community. He was also a prominent member of Alpha Phi Alpha, the first intercollegiate Greek-letter fraternity established for African-Americans; and

WHEREAS, the State of Illinois sends its deepest condolences to the family of the Honorable Eugene Sawyer, who is survived by his wife, Veronica, three children and four grandchildren:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim January 26, 2008 as a **DAY TO COMMEMORATE THE HONORABLE EUGENE SAWYER** in Illinois, and order all State facilities to fly flags at half-mast until sunset on January 26.

Issued by the Governor January 24, 2008
Filed by the Secretary of State January 25, 2008

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 32, Issue 6 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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