

2010

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 preemptory 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.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2010

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 21, 2009	January 4, 2010
2	December 28, 2009	January 8, 2010
3	January 4, 2010	January 15, 2010
4	January 11, 2010	January 22, 2010
5	January 19, 2010	January 29, 2010
6	January 25, 2010	February 5, 2010
7	February 1, 2010	February 16, 2010
8	February 8, 2010	February 19, 2010
9	February 16, 2010	February 26, 2010
10	February 22, 2010	March 5, 2010
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20	May 3, 2010	May 14, 2010
21	May 10, 2010	May 21, 2010
22	May 17, 2010	May 28, 2010
23	May 24, 2010	June 4, 2010
24	June 1, 2010	June 11, 2010

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
25	June 7, 2010	June 18, 2010
26	June 14, 2010	June 25, 2010
27	June 21, 2010	July 2, 2010
28	June 28, 2010	July 9, 2010
29	July 6, 2010	July 16, 2010
30	July 12, 2010	July 23, 2010
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32	July 26, 2010	August 6, 2010
33	August 2, 2010	August 13, 2010
34	August 9, 2010	August 20, 2010
35	August 16, 2010	August 27, 2010
36	August 23, 2010	September 3, 2010
37	August 30, 2010	September 10, 2010
38	September 7, 2010	September 17, 2010
39	September 13, 2010	September 24, 2010
40	September 20, 2010	October 1, 2010
41	September 27, 2010	October 8, 2010
42	October 4, 2010	October 15, 2010
43	October 12, 2010	October 22, 2010
44	October 18, 2010	October 29, 2010
45	October 25, 2010	November 5, 2010
46	November 1, 2010	November 12, 2010
47	November 8, 2010	November 19, 2010
48	November 15, 2010	November 29, 2010
49	November 22, 2010	December 3, 2010
50	November 29, 2010	December 10, 2010
51	December 6, 2010	December 17, 2010
52	December 13, 2010	December 27, 2010
53	December 20, 2010	January 3, 2011

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Illinois State Fair, and DuQuoin State Fair, Non-Fair Space Rental and the General Operation of the State Fairgrounds
- 2) Code Citation: 8 Ill. Adm. Code 270
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
270.350	Amend
270.560	Amend
270.630	Amend
- 4) Statutory Authority: State Fair Act [20 ILCS 210]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments would allow pets to be in designated campgrounds during the State Fair in Springfield and DuQuoin; allow camping at times other than during an event that has leased the entire fairgrounds; and expand stall rentals for thoroughbreds, racing quarter horses and lead ponies.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this Notice of rulemaking appears in the Illinois Register. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield, IL 62794-9281

217/785-5713
217/785-4505 (fax)

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: No additional procedures
 - C) Types of professional skills necessary for compliance: No additional skills needed
- 13) Regulatory agenda on which this rulemaking was summarized: January 2010

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER j: FAIRS

PART 270

ILLINOIS STATE FAIR, AND DUQUOIN STATE FAIR, NON-FAIR SPACE RENTAL
AND THE GENERAL OPERATION OF THE STATE FAIRGROUNDS

SUBPART A: DEFINITIONS: POLICY: VIOLATION

Section	
270.10	Definitions
270.15	Policy
270.20	Violation of Rules; Administrative Hearings

SUBPART B: CONCESSIONS AND EXHIBITS AT THE STATE FAIR

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270.25	Categories of Exhibits
270.30	Privilege to Operate a Concession or Exhibit
270.35	Application for Reassignment of Space
270.40	New Applications for Space Rental
270.45	Substitute Locations or Discontinuance of Contracts
270.50	Reassignment of Space by Department
270.55	Number of Stands Permitted
270.60	Policy Governing Exhibits/Concessions and Approval to Conduct Business
270.65	Policy of Permitting Space Without Monetary Charge
270.70	Exercising Constitutional Freedoms
270.75	Assignment of Contracts
270.80	Inspection of Premises
270.85	Removal or Denial of Acceptance
270.90	Concessions and Exhibits Prohibited
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270.100	Merchandising Permits
270.105	Measuring Space
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270.115	Broadcasting Devices
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270.125	Protection of the Public and Lessee's Property

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

270.130	Distributing Literature or Display Advertising
270.135	Payment of Space Rental Contract
270.140	Operational Hours
270.145	Sales Prior to the State Fair
270.150	Sales During the State Fair
270.155	Property Shipped to the State Fair
270.160	Removal of Property
270.165	Gambling, Raffles, Prizes, Games of Chance, Intoxicating Beverages
270.170	Inside Exhibits
270.175	Posting Food Prices
270.180	Clean-Up
270.185	Public Health
270.190	Food and/or Drink Service Operations
270.195	Release Procedure
270.200	Security
270.205	Liability
270.210	Concessionaire's or Exhibitor's Trailers
270.215	Failure to Abide by Rules or Contract Provisions
270.220	Lessee's General Standard of Conduct
270.221	Emergency Closing

SUBPART C: HORSE RACING AT THE STATE FAIR

Section	
270.225	Categories of Horse Racing
270.230	State Fair Colt Stakes Races
270.235	Review Futurity Races
270.240	Illinois Trotting and Pacing Colt Races
270.245	Quarter Horse Races

SUBPART D: PREMIUMS AND RULES GOVERNING EXHIBITS OR EVENTS

Section	
270.250	Premiums Offered
270.255	Premium Books
270.260	Payment of Premiums
270.261	Land of Lincoln Breeders Awards for Purebred or Registered Livestock

SUBPART E: JUDGES: STATE FAIR

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- Section
- 270.265 Professional and Artistic Contracts
- 270.270 Judge's Salary
- 270.275 Selection of Judges

SUBPART F: CERTIFICATES OF AWARD: STATE FAIR

- Section
- 270.280 Certificates, Ribbons and Trophies

SUBPART G: FEES FOR ADMISSION TO THE STATE FAIR

- Section
- 270.285 Daily Admission Charge
- 270.290 Special Events
- 270.295 Designated Days
- 270.300 Gate Admission Charge Waived
- 270.305 Schedule of Admission Charges and Fees
- 270.310 Admission of Motor Vehicles
- 270.315 Employees of Exhibitor/Concessionaire

SUBPART H: TRAFFIC CONTROL, PARKING AND CAMPING: STATE FAIR

- Section
- 270.320 Camping Location
- 270.325 Fee for Camping
- 270.330 Camping Sticker
- 270.335 Removal of Illegally Parked Vehicles
- 270.340 Extension Cords
- 270.345 Traffic Control and Parking; Spraying Livestock Trucks

SUBPART I: MISCELLANEOUS RULES GOVERNING
THE OPERATION OF THE STATE FAIR

- Section
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- 270.355 Structures of Lessee
- 270.360 Restrictions

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

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270.455	Insurance
270.460	Discrimination
270.465	Camping
270.470	Concessions
270.475	Delinquency
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270.485	Non-Exclusivity (Repealed)
270.490	Lessee's General Standard of Conduct
270.495	Criteria for Grant of Privileges
270.500	Waiver of Applicable Rules (Repealed)
270.505	Rate Schedules
270.510	Limit on Duration of Contract
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DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

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270.540	Health Laws
270.545	Rates
270.550	Inspection
270.555	Payment Due

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270.570	Fee
270.575	Camping Facilities
270.580	Sticker
270.585	Penalty
270.590	Extension Cords

SUBPART M: HOUSE TRAILERS: NON-FAIR

Section	
270.595	Eligibility
270.600	Misconduct
270.605	Liability
270.610	Rent and Rates For Other Services
270.615	Payment Method

SUBPART N: HORSE OR CATTLE BARN, STALL AND
TACK ROOM RENTAL: NON-FAIR

Section	
270.620	Rates
270.625	Rent Payable
270.630	General Stabling Rules: (Non-Contractual Events)
270.635	Reporting

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

270.640	Lessee Collection of Fees
270.645	Stall Use
270.650	Restriction to Assigned Space
270.655	Trailer Storage
270.660	Inspection
270.665	Restrictions
270.670	Quarantine Provisions
270.675	Dogs
270.680	General Misconduct
270.685	Track Usage
270.690	Restrictions on Barn Use

AUTHORITY: Implementing and authorized by the State Fair Act [20 ILCS 210]; implementing Section 40.14 and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16 and 40.14].

SOURCE: Adopted at 4 Ill. Reg. 25, p. 34, effective June 11, 1980; amended at 5 Ill. Reg. 1332, effective January 29, 1981; codified at 5 Ill. Reg. 10532; amended at 6 Ill. Reg. 8958, effective July 9, 1982; amended at 8 Ill. Reg. 6103, effective April 25, 1984; emergency amendments at 10 Ill. Reg. 13370, effective July 28, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 14282, effective August 20, 1986; amended at 10 Ill. Reg. 20468, effective November 26, 1986; amended at 11 Ill. Reg. 2228, effective January 20, 1987; amended at 15 Ill. Reg. 455, effective January 2, 1991; amended at 18 Ill. Reg. 9400, effective June 12, 1994; amended at 19 Ill. Reg. 9400, effective June 29, 1995; amended at 21 Ill. Reg. 5530, effective April 22, 1997; amended at 22 Ill. Reg. 11374, effective June 22, 1998; amended at 34 Ill. Reg. _____, effective _____.

SUBPART I: MISCELLANEOUS RULES GOVERNING
THE OPERATION OF THE STATE FAIR

Section 270.350 Pets

Pets are not allowed to be in public areas of the fairgrounds during the State Fair, except confined to campground areas as defined by the Division administrator or Division administrator's designee. Pets used for assistance to disabled persons, authorized competitive exhibits, shows or demonstrations at the State Fair or other approved purposes will be allowed. Violation of this Section will be cause for termination of any contract or privilege and for removal of the pets and owners from the Fairgrounds.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART L: CAMPING: NON-FAIR

Section 270.560 Who May Camp

- a) Camping is permitted at any time, other than during an event that has leased the entire fairgrounds, on the State Fairgrounds~~only permitted in association with contracted events on the State Fairgrounds.~~
- b) Any property remaining in the camping area after a 5 day written notice by the Department demanding removal of a person and/or property shall constitute an abandonment, and give the Department the right of assignment and sale of all said personal property to the Illinois Department of Agriculture without any additional consideration.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART N: HORSE OR CATTLE BARN, STALL AND
TACK ROOM RENTAL: NON-FAIR**Section 270.630 General Stabling Rules: (Non-Contractual Events)**

- a) No horse stabling will be permitted in the barns south of Central Avenue~~avenue~~ or west of Calvary Street;
- b) No horses will be permitted south of Barn 38 or west of Barn 78;
- c) No stall rentals shall be made for "pleasure or show" horses. The provisions of this subsection~~hereof~~ shall not apply to "standard breed, thoroughbred or racing quarter horses and lead ponies~~harness racing horses~~" for which individual stall rentals shall be available. "Pleasure or show" horses shall mean all other horses not falling within the definition of "standardbred, thoroughbred or racing quarter horse and lead ponies~~harness racing horses~~".

(Source: Amended at 34 Ill. Reg. _____, effective _____)

ILLINOIS BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Private Colleges and Universities Capital Distribution Formula
- 2) Code Citation: 23 Ill. Adm. Code 1039
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
1039.10	New
1039.20	New
1039.30	New
1039.40	New
1039.50	New
1039.60	New
1039.70	New
1039.80	New
1039.90	New
- 4) Statutory Authority: Implementing and authorized by the Private Colleges and Universities Capital Distribution Formula Act [30 ILCS 769/Art. 25], Build Illinois Act [30 ILCS 750] and Section 4 of the Build Illinois Bond Act [30 ILCS 425]
- 5) A Complete Description of the Subjects and Issues Involved: Section 25 of PA 96-37 created the Private Colleges and Universities Capital Distribution Formula Act. The Act provides a distribution formula for grants to non-profit private colleges and universities from the proceeds of \$300 million in Build Illinois bond sales. As proceeds become available, the funds will be distributed by the Illinois Board of Higher Education. The proposed rules are needed to: (1) identify eligible institutions, (2) determine eligible capital projects, (3) verify enrollment for the distribution formula, (4) sequence the distribution, and (5) comply with State accountability requirements. The Board staff has consulted with authorized representatives of private institutions in the development of this Rule.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rule replace an emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed amendment contain incorporations by reference? No

ILLINOIS BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

- 10) Are there any other proposed rulemaking 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].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:
- Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, Illinois 62701
helland@ibhe.org
- 217/557-7358
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Not for profit colleges and universities may apply for financial assistance.
- B) Reporting, bookkeeping or other procedures required for compliance: Audits and annual reports
- C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This Rule was not included on either of the 2 most recent agendas because the authorizing legislation was passed after the deadline for submissions to the July 2009 Regulatory Agenda and the availability of program funds was not anticipated in the first half of 2010.

The full text of the Proposed Rules is identical to that of the Emergency Rules found in this issue of the *Illinois Register* on page 2571.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Energy Conservation Code
- 2) Code Citation: 71 Ill. Adm. Code 600
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
600.100	Amended
600.110	Amended
600.210	Amended
600.300	Amended
600.320	Amended
600.340	Amended
600.400	New
600.410	New
600.420	New
600.430	New
600.440	New
- 4) Statutory Authority: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and the Energy Efficient Building Act [20 ILCS 3125]
- 5) A Complete Description of the Subjects and Issues Involved: Legislation passed in 2009 (HB 3987, PA 96-778) amends the Energy Efficient Commercial Building Act requiring residential buildings to conform with the energy efficiency standards that currently apply only to commercial buildings. The name of the Act is changed to the Energy Efficient Building (EEB) Act and is revised throughout the Part. The definition of residential buildings was revised and new Sections, 600.400 through 600.440, lay out the standards, exemptions, local jurisdiction, compliance and application to home rule units for residential buildings.

Revisions were made to Section 600.110 to update the language regarding the application of the code to additions, alterations, renovations or repairs and exceptions.

Section 600.210 was revised to update the name of the Energy Code Council. Additional language from the Act was added for clarification to Section 600.320 regarding the local jurisdictions responsibilities for adoption, enforcement and administration of the Code.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- 7) Will this proposed rulemaking replace any emergency rulemaking currently in effect?
Yes
- 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 and the Act prevent a local governmental unit from adopting a residential energy efficient code or standards that are more or less stringent than the Code with some exceptions as provided under this Act.
- 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 in writing for a period of 45 days following publication of this Notice. All comments must be in writing and should be addressed to:

Lisa Mattingly, Administrator of Professional Services
Capital Development Board
401 S. Spring Street
3rd Floor William G. Stratton Bldg.
Springfield, IL 62706

217/524-6408

E-Mail: lisa.mattingly@illinois.gov

Comments submitted by small business should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Those that are constructing, renovating or adding to residential building structures or issuing building permit applications.
- B) Reporting, bookkeeping or other procedures required for compliance: Those necessary for regulatory compliance.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- C) Types of Professional skills necessary for compliance: Code Officials are required and Licensed Design Professionals may be required.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2010

The proposed amendments are identical to those of the Emergency Amendments for this rulemaking, and begins in this issue of the *Illinois Register* on page 2582:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Reports of Child Abuse and Neglect
- 2) Code Citation: 89 Ill. Adm. Code 300
- 3) Section Number: 300.APPENDIX B Proposed Action: Amended
- 4) Statutory Authority: 325 ILCS 2
- 5) A Complete Description of the Subjects and Issues Involved: Proposed amendments to Part 300 address amended federal guidelines for the safety and well-being of children and families established by the Child Abuse Prevention Treatment Act. Other amendments implement recommendations made by the Department's Office of the Inspector General.
- 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 to this Part pending? Yes
- 11) Statement of Statewide Policy Objectives: The rulemaking does not expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805/3b].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: July 2009

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 300

REPORTS OF CHILD ABUSE AND NEGLECT

Section	
300.10	Purpose
300.20	Definitions
300.30	Reporting Child Abuse or Neglect to the Department
300.40	Content of Child Abuse or Neglect Reports
300.50	Transmittal of Child Abuse or Neglect Reports
300.60	Special Types of Reports (Recodified)
300.70	Referrals to the Local Law Enforcement Agency and State's Attorney
300.80	Delegation of the Investigation
300.90	Time Frames for the Investigation
300.100	Initial Investigation
300.110	The Formal Investigative Process
300.120	Taking Children into Temporary Protective Custody
300.130	Notices Whether Child Abuse or Neglect Occurred
300.140	Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents
300.150	Referral for Other Services
300.160	Special Types of Reports
300.170	Child Death Review Teams
300.180	Abandoned Newborn Infants
300.APPENDIX A	Acknowledgement of Mandated Reporter Status
300.APPENDIX B	Child Abuse and Neglect Allegations

AUTHORITY: Implementing and authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5], the Abandoned Newborn Infants Protection Act [325 ILCS 2] and Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3].

SOURCE: Adopted and codified as 89 Ill. Adm. Code 302 at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective

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November 1, 1985; amended at 10 Ill. Reg. 5915, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1151, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified from 89 Ill. Adm. Code 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, and Appendix A at 11 Ill. Reg. 3492; emergency amendment at 11 Ill. Reg. 4058, effective February 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12619, effective July 20, 1987; recodified at 11 Ill. Reg. 13405; amended at 13 Ill. Reg. 2419, effective March 1, 1989; emergency amendment at 14 Ill. Reg. 11356, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 17558, effective October 15, 1990; amended at 14 Ill. Reg. 19827, effective November 28, 1990; emergency amendment at 15 Ill. Reg. 14285, effective September 25, 1991; amended at 15 Ill. Reg. 17986, effective December 1, 1991; emergency amendment at 17 Ill. Reg. 15658, effective September 10, 1993, for a maximum of 150 days; emergency expired February 7, 1994; amended at 18 Ill. Reg. 8377, effective May 31, 1994; amended at 18 Ill. Reg. 8601, effective June 1, 1994; amended at 19 Ill. Reg. 3469, effective March 15, 1995; amended at 19 Ill. Reg. 10522, effective July 1, 1995; amended at 20 Ill. Reg. 10328, effective July 19, 1996; amended at 22 Ill. Reg. 18847, effective October 1, 1998; amended at 23 Ill. Reg. 13590, effective November 15, 1999; amended at 24 Ill. Reg. 7707, effective June 1, 2000; amended at 25 Ill. Reg. 12781, effective October 1, 2001; amended at 26 Ill. Reg. 7435, effective May 15, 2002; amended at 26 Ill. Reg. 11730, effective August 1, 2002; amended at 27 Ill. Reg. 1114, effective January 15, 2003; amended at 27 Ill. Reg. 9431, effective June 9, 2003; preemptory amendment at 29 Ill. Reg. 21065, effective December 8, 2005; amended at 33 Ill. Reg. 7862, effective June 15, 2009; amended at 34 Ill. Reg. _____, effective _____.

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Section 300.APPENDIX B Child Abuse and Neglect Allegations

This Appendix describes the specific incidents of harm which must be alleged to have been caused by the acts or omissions of the persons identified in Section 3 of the Abused and Neglected Child Reporting Act before the Department will accept a report of child abuse or neglect. The allegation definitions focus upon the harm or the risk of harm to the child. Many of the allegations of harm can be categorized as resulting from either abuse or neglect. All abuse allegations of harm are coded with a one or two digit number under ~~5030~~ 5030. All neglect allegations of harm are coded with a two digit number greater than 50. The allegations of harm are defined as follows:

ALLEGATION #**DEFINITION****1/51****Death**

~~Death means the permanent~~Permanent cessation of all vital functions.

The following definitions of death are also commonly used:

- Total irreversible cessation of cerebral function, spontaneous function of the respiratory system, and spontaneous function of the circulatory system;
- The final and irreversible cessation of perceptible heart beat and respiration.

Verification of death must come from a physician or coroner.

2/52**Head Injuries**

As used in this Part, head injury means a serious head injury causing skull fracture, brain damage or bleeding on the brain, such as subdural hematoma or shaken baby syndrome. ~~Brain damage, skull fractures, hematomas, subdural hematomas and shaken baby syndrome/shaken impact syndrome~~The following are considered head injuries:

Brain Damage

Brain ~~damage~~ Damage means injury to the ~~brain~~large, soft mass of nerve

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~~tissue~~ contained within the cranium skull.

Skull Fracture

Skull ~~fracture~~ Fracture means a broken bone of the skull.

Hematoma

Hematoma means a swelling or mass of blood (usually clotted) confined to an organ, tissue or space and caused by a break in a blood vessel.

Subdural Hematoma

Subdural means beneath the dura mater (the outer membrane covering the spinal cord and brain).

A subdural hematoma is located beneath the membrane covering the brain and is usually the result of head injuries or the shaking of a small child or infant. It may result in the loss of consciousness, seizures, mental or physical damage, or death.

Additional abusive head trauma includes subarachnoid subgaleal and epidural hematomas.

Shaken Baby Syndrome/Shaken Impact Syndrome (~~Whiplash Shaken Infant Syndrome (WSIS)~~)

Shaking of an infant causes stretching and tearing of blood vessels in the brain causing subdural hematoma, bleeding in the brain and retinal hemorrhage. These injuries may occur with or without obvious evidence of impact.

Verification of head injuries must come from a physician, preferably a neurosurgeon or radiologist.

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Internal Injuries

An internal injury is an injury which is not visible from the outside, e.g., an injury to the organs occupying the thoracic or abdominal cavities. Such injury

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may result from a direct blow or a penetrating injury. A person so injured may be pale, cold, perspiring freely, have an anxious expression, or may seem semicomatose. Pain is usually intense at first, and may continue or gradually diminish as patient grows worse.

Verification of internal injuries must come from a physician.

5/55

BurnsBurns

Burns are tissue injuries~~Tissue injury~~ resulting from excessive exposure to thermal, chemical, electrical or radioactive agents. The effects vary according to the type, duration and intensity of the agent and the part of the body involved. Burns are usually classified as first, second, third or fourth degree.÷

- First Degree (Partial Thickness)
First degree burns are superficial~~Superficial~~ burns, in which damage is being limited to the outer layer of the epidermis (skin) and are characterized. ~~Characterized~~ by scorching or painful redness of the skin. Sunburn is an example of a first degree burn.
- Second Degree (Partial Thickness)
Second degree burns are burns in which the~~The~~ damage extends through the outer layer of the skin into the inner layers (dermis). Blistering will be present within 24 hours.
- Third Degree (Full Thickness)
Third degree burns are burns~~Burns~~ in which both layers of the skin (epidermis and dermis) are destroyed with damage extending into underlying tissues, which may be charred or coagulated.
- Fourth Degree (Full Thickness)
Fourth degree burns are burns that~~Burns~~ extend beyond skin and underlying tissues into bone, joints and muscles.

Scalding

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Scalding is a ~~A~~ burn to the skin or flesh caused by moist heat and hot vapors, as steam.

All emersion burns (scalds) must be confirmed by a physician unless the alleged perpetrator has admitted to scalding the child.

6/56

Poison/Noxious SubstancesPoison

A poison is any ~~Any~~ substance, other than mood altering chemicals or alcohol, taken into the body by ingestion, inhalation, injection, or absorption that interferes with normal physiological functions. (Virtually any substance can be poisonous if consumed in sufficient quantity.; ~~Therefore~~ ~~therefore~~, the term poison more often implies an excessive amount rather than the existence of a specific substance.)

Noxious Substances

Any substance deemed to be harmful ~~Harmful~~, injurious, not wholesome.

Verification must come from a physician or by a direct admission from the alleged perpetrator.

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Wounds

A wound is a gunshot or stabbing injury.

Verification must come from a physician, a law enforcement officer or by a direct admission from the alleged perpetrator.

9/59

Bone Fractures

A fracture is a broken bone or certain cartilage injuries such as a broken nose.

Metaphyseal/Epiphyseal Fractures

Fractures located at the end of bones. They are commonly described as corner fractures, chipped fractures or bucket-handle fractures.

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Diaphyseal Fractures

Diaphyseal fractures are located in the bone shaft. Fractures in the shaft of long bones of the extremities are spiral (oblique) or transverse. ~~A spiral~~ Spiral fracture is caused by twisting or rotational force. Transverse ~~fractures~~ fracture results from a direct blow or bending force.

Verification must come from a physician or radiologist.

10/60

**Substantial Risk of Physical Injury/Environment
Injurious to Health and Welfare**

Substantial risk of physical injury means that the parent, caregiver, immediate family member aged 16 or over, other person residing in the home aged 16 or over, or the parent's paramour has created a real and significant danger of physical injury ~~that would likely cause disfigurement, death, or impairment of physical health or loss or impairment of bodily functions~~ (abuse). This allegation of harm is to be used when the type or extent of harm is undefined but the total circumstances lead a reasonable person to believe that the child is in substantial risk of physical injury. This allegation of harm also includes incidents of violence or intimidation directed toward the child that have not yet resulted in injury or impairment but that clearly threaten such injury or impairment (abuse) or placing a child in an environment that is injurious to the child's health and welfare (i.e., domestic violence, intimidation, and a child's participation in a criminal act) (neglect). Intimidation of a child means subjecting a child to participation in or the witnessing of the physical force or restraint of another.

~~Examples of incidents or circumstances that place the child in substantial risk of physical injury include, but are not limited to, the following:~~

Incidents of Maltreatment

Examples of incidents that place the child in substantial risk of physical injury include, but are not limited to, the following:

- ~~Choking~~ hoking the child (abuse);-

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- ~~Smothering~~mothering the child (abuse);-
- ~~Pulling~~pulling the child's hair out (abuse);-
- ~~Violently~~violently pushing or shoving the child into fixed or heavy objects (abuse);-
- ~~Throwing~~throwing or shaking a smaller child (abuse);-
- ~~Other~~other violent or intimidating acts directed toward the child that cause excessive pain or fear (abuse);-
- Situations~~situations~~ that place a child at substantial risk of harm due to environmental issues in the home include but are not limited to exposure to toxic vapors resulting from flammable and/or corrosive chemicals used in the manufacture of illicit drugs in a child's home environment (neglect);-
- Situations that place a child at substantial risk of harm due to the effects of being subjected to participation in or the witnessing of the physical force or restraint of another (neglect);
- Allowing or encouraging a child to be involved in a criminal activity (neglect).

Circumstances

Examples of circumstances that place the child in substantial risk of physical injury include, but are not limited to, the following:

- ~~Domestic~~domestic violence in the home when the child has been threatened and the threat is believable, as evidenced by a past history of violence or uncontrolled behavior (neglect).
- ~~Aa~~ perpetrator of child abuse who has been court ordered to remain out of the home returns home and has access to the abused child (abuse).
- ~~Anyone~~anyone living in the home has a documented history of violence toward children or has been arrested for violence to a child (abuse).

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- ~~The~~ circumstances surrounding the death of one child provides reason to believe that another child is at real and significant risk of harm~~danger of physical injury~~ (neglect).
- ~~Anyone~~ in the home exposes the child to an environment that significantly affects the health and safety based on use, sale or manufacturing of illegal drugs or alcohol (neglect).
- ~~Parent's~~ or ~~caregiver's~~ mental illness and behavior poses a significant danger to the child's health and safety (neglect). To indicate an allegation based on this factor, the Investigation Specialist~~investigator~~ must rule out dependency as defined in the Juvenile Court Act as the presenting problem (abuse or neglect).
- The parent has been adjudicated unfit by a court and the parent has not completed services that would correct the conditions which led to the court finding (abuse/neglect).

Factors To Be Considered

Whether there is a real and significant danger to justify taking a report is determined by the following factors. (All factors need not be present to justify taking the report. One factor alone may present sufficient danger to justify taking the report.)

- ~~The~~ child's age;
- ~~The~~ child's medical condition, behavioral, mental, or emotional problems, developmental disability, or physical handicap, particularly related to his or her ability to protect himself or herself;
- ~~The~~ severity of the occurrence;
- ~~The~~ frequency of the occurrence;
- ~~The~~ alleged perpetrator's physical, mental and/or emotional abilities, particularly related to his or her ability to control his or her actions;

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- ~~The~~ dynamics of the relationship between the alleged perpetrator and the child;
- ~~The~~ alleged perpetrator's access to the child;
- ~~The~~ previous history of indicated abuse or neglect;
- ~~The~~ current stresses/crisis in the home;
- ~~The~~ presence of other supporting persons in the home.

11/61

Cuts, Bruises, Welts, Abrasions and Oral InjuriesCut (Laceration)

~~A cut is an~~ opening, incision or break in the skin made by some external agent.

Bruise

~~A bruise is an~~ injury that results in bleeding under the skin, ~~in which~~ ~~where~~ the skin is discolored but not broken. ~~A bruise is also~~ referred to as a contusion.

Welt

~~A welt is an~~ elevation on the skin produced by a lash, blow, or allergic stimulus. The skin is not broken and the mark is reversible.

Abrasion

~~An abrasion is the~~ ~~A~~ scraping away of the skin.

Oral Injuries

~~Oral injuries are injuries~~ ~~Injuries~~ to the child's mouth, including broken teeth.

Factors ~~To Be~~ Considered

Not every cut, bruise, ~~or~~ welt, ~~abrasion, or oral injury~~ constitutes an

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allegation of harm. The following factors should be considered when determining whether an injury ~~that which~~ resulted in cuts, bruises, ~~or~~ welts, abrasions or oral injuries constitutes ~~constitute~~ an allegation of abuse or neglect~~harm~~:

- ~~The~~ the child's age, mobility and developmental stage. Bruises on children younger than nine months are highly suspicious. ~~(children aged 6 and under are at a much greater risk of harm).~~
- The child's medical condition, behavioral, mental, or emotional problems, developmental disability, or physical handicap, particularly as they relate to the child's potential for victimization~~ability to seek help~~.
- A pattern or chronicity of similar incidents. A single incident can constitute an allegation of abuse or neglect.
- The severity/extent of the cuts, bruises, welts, ~~or~~ abrasions, or oral injuries (size, number, depth, extent of discoloration). Some bruises may fade quickly, such as around a young child's mouth, but still be considered serious if the type of bruise (e.g., fingerprint marks) suggest intentionality.
- The location of the cuts, bruises, welts, ~~or~~ abrasions, or oral injuries. Accidental bruises are frequently seen over bony areas such as knees, shins, the forehead, and other exposed bony surfaces. Bruises located on padded areas such as the buttocks, cheeks, genitalia, or on relatively protected areas like the ear lobes, neck or upper lip, or on soft areas such as the stomach are highly suspicious.
- The pattern of the injury.
- Whether the injury was caused by~~whether~~ an instrument ~~was~~ used on the child.
- Previous~~previous~~ history of indicated abuse or neglect, or history of previous injuries.

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A human bite is a bruise, cut or indentation in the skin caused by seizing, piercing, or cutting the skin with human teeth.

13/63

Sprains/DislocationsSprain

A sprain is a trauma~~Trauma~~ to a joint that causes pain and disability, depending upon the degree of injury to ligaments and/or surrounding muscle tissue. In a severe sprain, ligaments and/or muscle tissue may be completely torn. The signs are rapid swelling, heat and disability, often discoloration and limitation of function.

Dislocation

A dislocation is the~~The~~ displacement of any part, especially the temporary displacement of a bone from its normal position in a joint. Types of dislocations include complicated, compound, closed and complete.~~÷~~

- Complicated. A complicated dislocation is associated with other major injuries.
- Compound. A compound dislocation is one~~Dislocation~~ in which the joint is exposed to the external air.
- Closed. A closed dislocation is a simple dislocation.
- Complete. A complete dislocation is a dislocation that ~~which~~ completely separates the surfaces of a joint.

Verification must come from a physician, registered nurse, licensed practical nurse or by a direct admission from the alleged perpetrator.

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Tying/Close Confinement

Tying/close confinement is the unreasonable~~Unreasonable~~ restriction of a child's mobility, actions, or physical functioning by tying the child to a fixed (or heavy) object, tying limbs together or forcing the child to remain in a closely confined area that ~~which~~ restricts physical movement. Examples

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include, but are not limited to:

- ~~Locking~~~~locking~~ a child in a closet or small room~~;~~;
- ~~Tying~~~~tying~~ one or more limbs to a bed, chair, or other object, except as authorized by a licensed physician~~;~~;
- ~~Tying~~~~tying~~ a child's hand behind his or her back~~;~~;
- ~~Putting~~~~putting~~ a child in a cage~~;~~;
- Preventing the child's ability to escape in case of an emergency due to a locked or blocked exit.

15/65

Substance MisuseOption A

The consumption of a mood altering chemical capable of intoxication to the extent that it harmfully affects the child's health, behavior, motor coordination, judgment, or intellectual capability. Mood altering chemicals include cannabis (marijuana), hallucinogens, stimulants (including cocaine ~~and methamphetamine~~), sedatives (including alcohol and Valium), narcotics, or inhalants (abuse/neglect). Abuse occurs if the parent provides the substance to the child. Neglect occurs if the parent allows the use or fails to protect the child from consumption.

Option B

~~A diagnosis of fetal~~~~Fetal~~ alcohol syndrome or drug withdrawal at birth caused by the mother's addiction to drugs is included in this definition and is considered child neglect (neglect).

Option C

Any amount of a controlled substance or a metabolite thereof ~~that is~~ found in the blood, urine or meconium (newborn's first stool) of a newborn infant. A controlled substance is defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act [720 ILCS 570/102] (neglect). The presence of

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such substances shall not be considered as child neglect if the presence is due to medical treatment of the mother or infant.

NOTE: Methadone withdrawal or other withdrawal verified as under the auspices of a drug treatment program is not included under drug withdrawal at birth.

Examples

~~Examples of substance misuse include, but are not limited to:~~

- ~~Giving~~~~giving~~ a minor (unless prescribed by a physician) any amount of heroin, cocaine, morphine, peyote, LSD, PCP, pentazocine, or methaqualone or encouraging, insisting, or permitting a minor's consumption of the above substances.
- ~~Giving~~~~giving~~ any mood altering substance, including alcohol or sedatives, unless prescribed by a physician, to an infant or toddler.
- ~~Encouraging~~~~encouraging~~, insisting or permitting a child who has not reached puberty to consume alcohol, drugs, or another mood altering substance on a regular or frequent basis.
- ~~Encouraging~~~~encouraging~~, insisting or permitting an adolescent to consume alcohol, drugs, or another mood altering substance on a daily basis.
- ~~Encouraging~~~~encouraging~~, insisting or permitting any minor to become intoxicated by alcohol, drugs, or another mood altering substance even if on an infrequent basis.

Factors To Be ~~to be~~ Considered

~~The following factors should be considered when determining whether a child is involved in substance misuse:~~

- ~~Age~~~~age~~ of the child~~:-~~
- ~~Frequency~~~~frequency~~ of substance misuse~~:-~~.

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- ~~Amount~~amount of substance consumption~~;~~;
- ~~Whether~~whether the substance is illegal for general population use~~;~~;
- ~~Degree~~degree of behavioral dysfunction, or physical impairment linked to substance misuse~~;~~;
- ~~The~~the child's culture, particularly as it relates to use of alcohol in religious ceremonies or on special occasions~~;~~;
- ~~Whether~~whether the parent or caregiver's attempts to control an older child's substance misuse or to seek help for the child's substance misuse were reasonable under the circumstances~~;~~;
- ~~Whether~~whether the parent or caregiver knew or should have known of the child's substance misuse.

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Torture

~~Torture means inflicting~~Inflicting or subjecting the child to~~,~~ intense physical and/or mental pain, suffering~~,~~ or agony that can be a one time incident or is severe, repetitive, increased~~,~~ or prolonged. This definition includes genital mutilation.

17/67

Mental and Emotional Impairment

~~Mental and emotional impairment means injury~~Injury to the intellectual, emotional or psychological development of a child as evidenced by observable and substantial impairment in the child's ability to function within a normal range of performance and behavior, with due regard to his or her culture.

Verification that a child has been mentally injured must come from a medical doctor, psychiatrist, registered psychologist, certified social worker, registered nurse or a therapist or counselor of a community mental health agency.

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Sexually Transmitted Diseases

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A ~~sexually transmitted~~ disease ~~is a disease that which~~ was acquired originally as a result of sexual penetration or sexual conduct with an individual who is afflicted with the disease. The diseases may include, but are not limited to:

- Acquired Immune Deficiency Syndrome (AIDS)
- ~~AIDS Related Complex (ARC)~~~~Balanoposthitis~~
- ~~Calymmatobacterium Granulomatis~~
- Chancroid
- Chlamydia Trachomatis
- Genital Herpes
- Genital Warts
- Gonorrhea
- Granuloma Inquinale
- ~~Haemophilus Ducreyi~~
- HIV Infection
- Lymphogranuloma Venereum
- Neisseria Gonorrhea
- ~~Nonspecific Urethritis~~
- Proctitis
- Syphilis
- ~~Treponema Pallidum~~
- Trichomonas Vaginalis (Symptomatic)

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Sexual penetration is defined in the Illinois Criminal Sexual Assault Act as "any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration."

Sexual conduct is defined in the Act as "any intentional or knowing touching or fondling of the victim or the perpetrator, either directly or through clothing of the sex organs, anus or breast of the victim or the accused, or any part of the body of a child...for the purpose of sexual gratification or arousal of the victim or the accused."

Verification of sexually transmitted diseases must come from a medical source.

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Sexual Penetration

Sexual penetration is anyAny contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or any animal or object into the sex organ or anus of another person. This includes acts commonly known as oral sex (cunnilingus, fellatio), anal penetration, coition, coitus, and copulation.

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Sexual Exploitation

Sexual exploitation is the use of a child for sexual arousal, gratification, advantage, or profit. This includes but is not limited to:

- Indecent~~indecent~~ solicitation of a child/explicit verbal enticement;-
- Explicit verbal enticement;
- Child~~child~~ pornography;-
- Exposing a child to sexually explicit material in any form;

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- ~~Exposing~~ ~~exposing~~ sexual organs to a child for the purpose of sexual arousal or gratification~~;~~:-
- ~~Forcing~~ ~~forcing~~ the child to watch sexual acts~~;~~:-
- ~~Self~~ ~~self~~-masturbation in the child's presence~~;~~:-
- Other behavior by an eligible perpetrator that, when considered in the context of the circumstances, would lead a reasonable person to conclude that sexual exploitation of a child has occurred.

NOTE: Sexual penetration and molestation are excluded from this allegation. They are listed as separate allegations.

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Sexual Molestation

Sexual molestation is sexual ~~Sexual~~ conduct with a child when the such contact, touching or interaction is used for arousal or gratification of sexual needs or desires. Parts of the body, as used in the examples below, refer to the parts of the body described in the definition of sexual conduct found in the Illinois Criminal Sexual Assault Act [720 ILCS 5/12-12] as quoted above under Allegation 18, Sexually Transmitted Diseases. Examples include, but are not limited to:

- ~~Fondling~~ ~~fondling~~:-
- ~~The~~ ~~the~~ alleged perpetrator inappropriately touching or pinching parts of the child's body generally associated with sexual activity~~;~~:-
- ~~Encouraging~~ ~~encouraging~~, forcing, or permitting the child to touch parts of the alleged perpetrator's body normally associated with sexual activity.

22

Substantial Risk of Sexual Injury

Substantial risk of sexual injury means that the parent, caregiver, immediate family member, other person residing in the home, or the parent's paramour has created a real and significant danger of sexual abuse as explained in the following options ~~;- in that~~:

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Option A

An indicated, registered, or convicted sex offender has significant access to children, and the extent/quality of supervision during contact is unknown or suspected to be deficient.

Option B

There are siblings or other children in the same household as the alleged offender of a current allegation of sexual abuse. There is credible information/evidence of a current or previous incident of child sexual abuse that did not meet Department eligibility requirements for a report to be taken (e.g., an ineligible victim or the victim discloses after attaining the age of 18).

Option C

Persistent, highly sexualized behavior or knowledge in a very young child (e.g., under the age of five chronologically or developmentally) that is grossly age inappropriate, and there is reasonable cause to believe that the most likely manner in which this behavior or knowledge was learned is in having been sexually abused.

Reports of risk of sexual harm are not to be taken solely on the inappropriate or suggestive behavior of the alleged offender or because there is insufficient information for an allegation of specific sexual abuse, except as defined in this Allegation 22.

If, during the course of the investigation, a specific allegation of harm is identified, the appropriate allegation must be added and a determination made on all the allegations. If another allegation is determined to be more appropriate, that allegation should be utilized and the substantial risk of sexual injury allegation deemed unfounded.

~~Note: When accepting a report based on behavioral indicators, State Central Register staff must inform the reporter that the report cannot be indicated unless the victim makes a statement regarding specific sexual abuse or a forensic evaluation or independent consultation results in a clinical finding of sexual abuse.~~

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Option D

A member of the household has engaged in illegal child pornography activities outside and/or inside the residence and has significant access to the children, and the extent/quality of the supervision is unknown or suspected to be deficient.

40/90**Human Trafficking of Children**

Federal law defines severe forms of trafficking of persons as: sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery. (22 USC 7102(8))

Incidents of Maltreatment

- Coerced labor exploitation (abuse);
- Domestic servitude (abuse);
- Commercial sexual exploitation (i.e., prostitution) (abuse);
- Anyone in the home exposes the child to an environment that significantly influences the child's health and safety (neglect).

Factors To Be Considered

All factors need not be present to justify taking a report. One factor alone may present sufficient danger to justify taking a report.

- The child's age.
- The child's inability to attend school on a regular basis due to actions of the perpetrator.
- A child who is a chronic runaway has been recruited, enticed, harbored

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and transported for the purpose of forced labor and/or commercial sexual exploitation.

- The child makes references to frequent travel to other cities.
- The child makes reference to having a pimp.
- The child makes reference to being coerced into performing illegal activities.
- The child is not compensated for work performed.
- The child exhibits bruises or other physical trauma, withdrawn behavior, depression or fear.
- The child lacks control over his or her schedule.
- The child lacks control over his or her identification documents.
- The child is hungry or malnourished.
- The child is inappropriately dressed based on weather conditions or surroundings.
- The child shows signs of drug addiction.
- The child shows signs of exposure to drug manufacturing.

Additional factors that may indicate sex-related trafficking include the following:

- The child has a sudden change in attire, behavior or material possessions (e.g., expensive items).
- The child makes references to sexual situations that are beyond age-specific norms.
- The child has a "boyfriend" who is noticeably older (10+ years).

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- The child makes references to terminology of the commercial sex industry that are beyond age-specific norms or engages in promiscuous behavior and may be labeled "fast" by peers.

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Inadequate Supervision

The child has been placed in a situation or circumstances that are likely to require judgment or actions greater than the child's level of maturity, physical condition, and/or mental abilities would reasonably dictate. *A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for this or her welfare has left the child in the care of an adult relative for any period of time [325 ILCS 5/3].* Examples include, but are not limited to:

- ~~Leaving~~leaving children alone when they are too young to care for themselves.
- ~~Leaving~~leaving children alone who have a condition that requires close supervision. Such conditions may include medical conditions, behavioral, mental, or emotional problems, or developmental or physical disabilities.
- ~~Leaving~~leaving children in the care of an inadequate or inappropriate caregiver.
- ~~Being~~being present but unable to supervise because of the caregiver's condition. (This includes (1) the parent or caregiver ~~who~~ repeatedly uses drugs or alcohol to the extent that it has the effect of producing a substantial state of stupor, unconsciousness, intoxication or irrationality and (2) the parent or caregiver ~~who~~ cannot adequately supervise the child because of his or her medical condition, behavioral, mental, or emotional problems, or a developmental or physical disability.)
- ~~Leaving~~leaving children unattended in a place that is unsafe for them when their maturity, physical condition, and mental abilities are considered.

Factors To Be ~~to be~~ Considered

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The following factors should be considered when determining whether a child is inadequately supervised:

Child Factors

- ~~The~~ child's age and developmental stage, particularly related to the ability to make sound judgments in the event of an emergency.
- ~~The~~ child's physical condition, particularly related to the child's ability to care for or protect himself or herself. Is the child physically or mentally handicapped, or otherwise in need of ongoing prescribed medical treatment such as periodic doses of insulin or other medications?
- ~~The~~ child's mental abilities, particularly as ~~they relate~~ related to the ~~child's~~ ability to comprehend the situation.

Caregiver Factors

- ~~Presence or Accessibility of Caregiver~~ presence or accessibility of caregiver.
 - ☐ How long does it take the caregiver to reach the child?
 - ☐ Can the caregiver see and hear the child?
 - ☐ Is the caregiver accessible by telephone?
 - ☐ Has the child been given access to a phone and numbers to call in the event of an emergency?
- ~~Caregiver's Capabilities~~ caregiver's capability.
 - ☐ Is the caregiver mature enough to assume responsibility for the situation?
 - ☐ Does the caregiver depend on extraordinary assistance to care for self and the child, i.e., meal preparation, laundry, grocery shopping, transportation? Is the caregiver without consistent or

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reliable assistance?

- ☐ Is the child assuming primary care giving duties, i.e., meal preparation, laundry, grocery shopping, transportation?
- ~~Caregiver's Physical Condition~~~~caregiver's physical condition.~~
- ☐ Is the caregiver physically able to care for the child? Do the caregiver's own health needs present serious obstacles to the care and well-being of the child?
- ~~Caregiver's Cognitive and Emotional Condition~~~~caregiver's cognitive and emotional condition.~~
- ☐ Is the caregiver able to make appropriate judgments on the child's behalf?
- ☐ Do the caregiver's own health needs present serious obstacles to the care and well-being of the child?

Incident Factors

- ~~What is the~~ frequency of occurrence~~?~~
- ~~What is the~~ duration of the occurrence (as related to the "child factors" above)~~?~~
- ~~What is the~~ time of the day or night when the incident occurs~~?~~
- ~~What is child's location~~ (the condition and location of the place where the minor was left without supervision~~?~~
- ~~What were~~ the weather conditions, including whether the minor was left in a location with adequate protection from the natural elements such as adequate heat or light~~?~~
- ~~Were there~~ other supporting persons who are overseeing the child~~?~~
(Was the child given a phone number of a person or location to call in the event of an emergency, and whether the child was capable of

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making an emergency call?)

- ~~Was there whether~~ food and other provisions ~~were~~ left for the child?;
- ~~Are there~~ other factors that may endanger the health and safety of the child?;

75

Abandonment/DesertionAbandonment

Abandonment is parental/~~legal guardian~~ conduct ~~that which~~ demonstrates the purpose of relinquishing all parental/~~legal~~ rights and claims to the child.

Abandonment is also defined as any parental ~~or caregiver~~ conduct ~~that which~~ evinces a settled purpose to forego all parental/~~legal duties and relinquish all parental~~ claims to the child.

Desertion

~~Desertion is any conduct on the part of a parent or legal guardian that indicates that the parent or legal guardian has no intention, now or in the future, to maintain any degree of interest, concern or responsibility for the child. Desertion includes leaving a child with no apparent intention to return unless the child has been left in the care of a relative.~~

~~Desertion is any conduct on the part of a parent that indicates an intention to terminate custody of the child but not to relinquish all duties to and claims on the child.~~

~~Examples of abandonment/desertion include, but are not limited to, parents who:~~

- ~~Leaveleave~~ a baby on a doorstep;:-
- ~~Leaveleave~~ a baby in a garbage can;:-
- ~~Leaveleave~~ a child with no apparent intention to return;:-
- ~~Leaveleave~~ a child with an appropriate caregiver but fail to resume care

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of the child, as agreed, and the caregiver cannot or will not continue to care for the child.

76

Inadequate Food

Inadequate food means that there is a lack~~Lack~~ of food adequate to sustain normal functioning. It is not as severe as malnutrition~~Malnutrition~~ or failure~~Failure~~ to thrive~~Thrive~~, both of which require a medical diagnosis.

Examples include:

- ~~The~~The child ~~who~~ frequently and repeatedly misses meals or ~~who~~ is frequently and repeatedly fed insufficient amounts of food~~;~~:-
- ~~The~~The child ~~who~~ frequently and repeatedly asks neighbors for food and other information substantiates that the child is not being fed~~;~~:-
- ~~The~~The child ~~who~~ is frequently and repeatedly fed unwholesome foods when his or her age, developmental stage, and physical condition are considered.

Factors ~~To Be~~ Considered

Child Factors

- The child's age~~;~~:-
- The child's developmental stage~~;~~:-
- The child's physical condition, particularly related to the need for a special diet~~;~~:-
- The child's mental abilities, particularly related to his or her ability to obtain and prepare his or her own food.

Incident Factors

- The frequency of the occurrence~~;~~:-

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- ~~The~~ duration of the occurrence;
- ~~The~~ pattern or chronicity of occurrence;
- ~~Previous~~~~previous~~ history of occurrences;
- ~~The~~ availability of adequate food.

77

Inadequate Shelter

~~Inadequate shelter means there is a lack~~~~Lack~~ of shelter that is safe and that protects the children from the elements.

~~Examples of inadequate shelter include, but are not limited to:~~

- ~~None~~ housing or shelter;
- ~~Condemned~~~~condemned~~ housing;
- ~~Housing with~~ exposed, frayed wiring;
- ~~Housing~~~~housing~~ with structural defects that endanger the health or safety of a child;
- ~~Housing~~~~housing~~ with indoor temperatures consistently below 50° F;
- ~~Housing~~~~housing~~ with broken windows in sub-zero weather;
- ~~Housing~~~~housing~~ that is ~~ana~~ obvious fire hazard ~~obvious to~~ at the reasonable person;
- ~~Housing~~~~housing~~ with an unsafe heat source that poses a fire hazard or threat of asphyxiation.

~~Factors To Be~~ to be Considered

Child Factors

- ~~The~~ child's age;

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- The child's developmental stage;:-
- The child's physical condition, particularly when it may be aggravated by the inadequate shelter;:-
- The child's mental abilities, particularly related to the child's ability to comprehend the dangers posed by the inadequate shelter.

Shelter Factors

- Seriousness~~seriousness~~ of the problem;:-
- Frequency~~frequency~~ of the problem;:-
- Duration~~duration~~ of the problem;:-
- Pattern~~pattern~~ or chronicity of the problem;:-
- Previous~~previous~~ history of shelter-related problems.

78

Inadequate Clothing

Inadequate clothing means a lack~~Lack~~ of appropriate clothing to protect the child from the elements.

Factors To Be to-be Considered

Child Factors

- The child's age;:-
- The child's developmental stage;:-
- The child's physical condition, particularly related to conditions that may be aggravated by exposure to the elements;:-
- The child's mental abilities, particularly related to his or her ability to obtain appropriate clothing.

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Incident Factors

- ~~Frequency~~frequency of the incident;:-
- ~~Duration~~duration of the incident;:-
- ~~Chronicity~~chronicity or pattern of similar incidents;:-
- ~~Weather~~weather conditions such as extreme heat or extreme cold.

79

Medical Neglect

Medical or Dental Treatment

Lack of medical or dental treatment/management for a health problem or condition that, if untreated/unmanaged or not treated/managed as prescribed, could become severe enough to cause the child suffering and/or constitute a serious or long-term harm to the child; lack of follow-through on a reasonable prescribed medical or dental treatment/management plan for a condition that could become serious enough to cause the child suffering and/or constitute serious or long-term harm to the child if the plan goes unimplemented.

Treatment is the administration of a remedy to cure a health condition.

Management is the practice of providing care of a chronic medical condition.

Lack of preventive health care, such as HIV and newborn screening tests, place children at serious risk of illness due to lack of early detection and treatment.

Health care professionals include physicians, nurse practitioners, nurses, dentists, physical therapists, infant development specialists and nutritionists.

Factors ~~To Be~~ to be Considered

- The child's age, particularly as it relates to the child's ability to obtain and implement a treatment/management plan;:-

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- ~~The~~ child's developmental stage~~;~~
- ~~The~~ child's physical condition~~;~~
- ~~The~~ seriousness of the current health problem~~;~~
- ~~The~~ probable outcome if the current health problem is not treated and the seriousness of that outcome~~;~~
- ~~The~~ generally accepted ~~health~~~~medical~~ benefits of the prescribed treatment~~;~~
- ~~The~~ generally recognized side effects/harms associated with the prescribed treatment.

It must be verified that the child has/had an untreated health problem, or that a prescribed treatment plan was implemented. ~~The Such~~ verification must come from a physician, registered nurse, dentist, or by a direct admission from the alleged perpetrator. It must further be verified by a physician, registered nurse or dentist that the problem or condition, if untreated, could result in serious or long-term harm to the child.

81

Failure to Thrive (Non-Organic)

~~Failure to thrive is a A~~ serious medical condition most often seen in children under one year of age. The child's weight, height and motor development fall significantly short of the average growth rates of normal children (i.e., below the fifth percentile). ~~In a small percentage~~~~In about 10%~~ of these cases, there is an organic cause such as a serious kidney, heart, or intestinal disease, a genetic error of metabolism or brain damage. ~~Usually in non-organic failure to thrive cases there is a disturbed parent/child relationship that manifests itself as physical and emotional neglect of the child. Diseases that may prevent growth and psychosocial reasons that cause growth failure are not mutually exclusive. They are often found together.~~~~All other cases are a result of a disturbed parent-child relationship manifested in severe physical and emotional neglect of the child.~~ Non-organic failure to thrive requires a medical diagnosis before it may be indicated.

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Verification of failure to thrive must come from a physician.

82

Environmental Neglect

The child's person, clothing, or living conditions are unsanitary to the point that the child's health may be impaired. This may include infestations of rodents, spiders, insects, snakes, etc., human or animal feces, rotten or spoiled food or rotten or spoiled garbage that the child can reach.

Factors To Be ~~to be~~ Considered

Special attention should be paid to the child's physical condition and the living conditions in the home in order to determine whether the report constitutes an allegation of harm. In addition, the following factors should be considered.

Child Factors

- The child's age (children aged 6 and under are more likely to be harmed);~~:-~~
- The child's developmental stage;~~:-~~
- The child's physical condition;~~:-~~
- The child's mental abilities.

Incident Factors

- The severity of the conditions;~~:-~~
- The frequency of the conditions;~~:-~~
- The duration of the conditions;~~:-~~
- The chronicity or pattern of similar conditions.

83

Malnutrition (Non-Organic)

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Malnutrition is the lack~~Lack~~ of necessary or proper food substances in the body caused by inadequate food, lack of food, or insufficient amounts of vitamin or minerals. This is also~~(Also~~ known as marasmus or kwashiorkor.) Non-organic malnutrition requires a medical diagnosis before it may be indicated. There are various physical signs of malnutrition:

- A~~A~~ decrease in lean body mass or fat; very prominent ribs; the child may often be referred to as skin and bones~~;~~:-
- Hair~~the hair~~ is often sparse, thin, dry, and is easily pulled out or falls out spontaneously~~;~~:-
- The~~the~~ child is often pale and suffers from anemia~~;~~:-
- Excessive~~excessive~~ perspiration, especially about the head~~;~~:-
- The~~the~~ face appears lined and aged, often with a pinched and sharp appearance~~;~~:-
- The~~the~~ skin has an old, wrinkled look with poor turgor and typically~~;~~:-
~~(Classically, skin folds hang loose on the inner thigh and buttock);-~~
- The~~the~~ abdomen is often protuberant~~;~~:-
- There~~there~~ are abnormal pulses, blood pressure, stool patterns, intercurrent infections, abnormal sleep patterns and a decreased level of physical and mental activity.

Verification of malnutrition must come from a physician.

84

Lock-Out

The parent or caregiver has denied the child access to the home and has refused or failed to make provisions for another living arrangement for the child.

85

Medical Neglect of Disabled Infants

Medical neglect of a disabled infant is the~~The~~ withholding of appropriate

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nutrition, hydration, medication or other medically indicated treatment from a disabled infant with a life-threatening condition. Medically indicated treatment includes medical care that is most likely to relieve or correct all life-threatening conditions and evaluations or consultations necessary to assure that sufficient information has been gathered to make informed medical decisions. Nutrition, hydration, and medication, as appropriate for the infant's needs, ~~are is~~ medically indicated for all disabled infants. Other types of treatment are not medically indicated when:

- ~~The~~ infant is chronically and irreversibly comatose;
- ~~The~~ provision of the treatment would be futile and would merely prolong dying;
- ~~The~~ provision of the treatment would be virtually futile and the treatment itself would be inhumane under the circumstances.

In determining whether treatment will be medically indicated, reasonable medical judgments, such as those made by a prudent physician knowledgeable about the case and its treatment possibilities, will be respected. However, opinions about the infant's future "quality of life" are not to bear on whether a treatment is judged to be medically indicated.

Factors ~~To Be to be~~ Considered

- ~~The~~ infant's physical condition;
- ~~The~~ seriousness of the current health problem;
- ~~The~~ probable medical outcome if the current health problem is not treated and the seriousness of that outcome;
- ~~The~~ generally accepted medical benefits of the prescribed treatment;
- ~~The~~ generally recognized side effects associated with the prescribed treatment;
- ~~The~~ opinions of the Infant Care Review Committee (ICRC), ~~(if the hospital has an ICRC)~~;

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- ~~The~~ judgment of the Perinatal Coordinator regarding whether treatment is medically indicated and whether there is credible evidence of medical neglect;
- ~~The~~ parent's knowledge and understanding of the treatment and the probable medical outcome.

Verification that treatment was medically indicated must come from a physician and may come from experts in the field of neonatal pediatrics.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Regulatory and Informational Hearings and Proceedings
- 2) Code citation: 35 Ill. Adm. Code 102
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
102.412	Amend
- 4) Statutory authority: Implementing Sections 21, 22, 22.01 and 22.9 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, 22.9, 27]
- 5) A complete description of the subjects and issues involved: For a more detailed description of this rulemaking, see the Board's January 21, 2010 opinion and order Proposed Amendment to Procedural Rules on Hearings in Identical in Substances Rulemakings: 35 Ill. Adm. Code 102 (R10-18).

The Board has traditionally held public hearings at one location in rulemakings that amend the definition of volatile organic material (VOM) pursuant to Section 7.2 of the Act (415 ILCS 5/7.2 (2008)). The Board held those hearings to ensure consistency with the Clean Air Act 42 U.S.C. § 7401 *et. seq.* and the rules adopted by the United States Environmental Protection Agency (USEPA) that require hearings at 40 CFR § 51.102. These hearings are generally brief with little to no testimony placed in the record. *See e.g.* Definition of VOM Update, USEPA Amendments (January 1, 2009 through June 30, 2009), R10-7. The Board has the ability to videoconference between the Chicago Offices of the Board and the Springfield Offices of the Board. The Board believes that holding these types of hearings via videoconference will allow more economical participation by the public and government officials without hampering the proceedings.

The Board is not required to hold hearings in the other types of rulemakings authorized by Section 7.2 of the Act (e.g., underground injection control rules, underground storage tank rules) (415 ILCS 5/7.2 (2008)) and has not previously done so. However, there is the possibility that a hearing in a future rulemaking pursuant to Section 7.2 of the Act (415 ILCS 5/7.2 (2008)) may serve the public interest. Therefore, the Board proposes to amend the procedural rules to allow the Board to hold these limited types of hearings in rulemakings pursuant to Section 7.2 of the Act (415 ILCS 5/7.2 (2008)) via videoconference. Public participation is welcomed at both sites as managed by the Board's hearing officer assigned to the specific rulemaking.

- 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 rulemakings pending on this Part? No
- 11) Statement of Statewide policy objectives: The proposed amendments do not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R10-18 and be addressed to:

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

Address questions to Marie Tipsord at 312-814-4925.

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

- 13) Initial regulatory flexibility analysis:
 - A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking will not impact any small business, small municipality, and not-for-profit corporation except to make public participation in rulemaking hearings for identical in substance rules before the Board easier to attend
 - B) Reporting, bookkeeping or other procedures required for compliance: There are no reporting, bookkeeping or other procedures required for compliance.

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- C) Types of professional skills necessary for compliance: No professional skills will be required.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on regulatory agendas in the last year as the necessity and advisability for the rule became clear only recently in the Board's proceedings in a Board rulemaking to amend the definition of VOM.

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 102
REGULATORY AND INFORMATIONAL HEARINGS AND PROCEEDINGS

SUBPART A: GENERAL PROVISIONS

Section	
102.100	Applicability
102.102	Severability
102.104	Definitions
102.106	Types of Regulatory Proposals
102.108	Public Comments
102.110	Waiver of Requirements
102.112	Other Proceedings

SUBPART B: REGULATIONS OF GENERAL APPLICABILITY,
RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)
AMENDMENTS, AND SITE-SPECIFIC REGULATIONS

Section	
102.200	Proposal for Regulations of General Applicability
102.202	Proposal Contents for Regulations of General Applicability
102.204	Proposal of RCRA Amendments
102.206	Notice of Site-Specific RCRA Proposals
102.208	Proposal for Site-Specific Regulations
102.210	Proposal Contents for Site-Specific Regulations
102.211	Proposal to Update Incorporations by Reference
102.212	Dismissal

SUBPART C: CLEAN AIR ACT AMENDMENTS (CAAA)
FAST TRACK RULEMAKING

Section	
102.300	Applicability
102.302	Agency Proposal
102.304	Hearings

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102.306 Prefiled Testimony

SUBPART D: SERVICE AND FILING OF DOCUMENTS, MOTIONS,
PRODUCTION OF INFORMATION, SUBPOENAS, PREHEARING
CONFERENCES, AND HEARINGS

Section

102.400 Service and Filing of Documents
102.402 Motions, Production of Information, and Subpoenas
102.404 Initiation and Scheduling of Prehearing Conferences
102.406 Purpose of Prehearing Conference
102.408 Prehearing Order
102.410 Authorization of Hearing
102.412 Scheduling of Hearings
102.414 Hearings on the Economic Impact of New Proposals
102.416 Notice of Hearing
102.418 Record
102.420 Authority of the Hearing Officer
102.422 Notice and Service Lists
102.424 Prehearing Submission of Testimony and Exhibits
102.426 Admissible Information
102.428 Presentation of Testimony and Order of Hearing
102.430 Questioning of Witnesses

SUBPART E: CERTIFICATION OF REQUIRED RULES

Section

102.500 Agency Certification
102.502 Challenge to Agency Certification
102.504 Board Determination

SUBPART F: BOARD ACTION

Section

102.600 Revision of Proposed Regulations
102.602 Adoption of Regulations
102.604 First Notice of Proposed Regulations
102.606 Second Notice of Proposed Regulations
102.608 Notice of Board Final Action

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- 102.610 Adoption of Identical-in-Substance Regulation
- 102.612 Adoption of Emergency Regulations
- 102.614 Adoption of Peremptory Regulations

SUBPART G: MOTIONS FOR RECONSIDERATION AND APPEAL

- Section
- 102.700 Filing of Motions for Reconsideration
- 102.702 Disposition of Motions for Reconsideration
- 102.704 Correction of Publication Errors
- 102.706 Appeal

SUBPART H: OUTSTANDING RESOURCE WATER DESIGNATION

- Section
- 102.800 Applicability
- 102.810 Petition
- 102.820 Petition Contents
- 102.830 Board Action

102.APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing Sections 5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 28.6, 29, and 41 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 28.6, 29, and 41] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

SOURCE: Originally adopted as Chapter 1: Procedural Rules, Part II: Regulatory and Other Nonadjudicative Hearings and Proceedings, in R70-4, 1 PCB 43, October 8, 1970; codified at 6 Ill. Reg. 8357; amended in R84-10 at 9 Ill. Reg. 1398, effective January 16, 1985; Part repealed, new Part adopted in R88-5(B) at 14 Ill. Reg. 9210, effective May 24, 1990; amended in R90-16 at 14 Ill. Reg. 20472, effective December 11, 1990; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 587, effective January 1, 2001; amended in R01-13 at 26 Ill. Reg. 3498, effective February 22, 2002; amended in R04-24 at 29 Ill. Reg. 8776, effective June 8, 2005; amended in R10-18 at 34 Ill. Reg. _____, effective _____.

SUBPART D: SERVICE AND FILING OF DOCUMENTS, MOTIONS,
PRODUCTION OF INFORMATION, SUBPOENAS, PREHEARING
CONFERENCES, AND HEARINGS

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Section 102.412 Scheduling of Hearings

- a) Except as otherwise provided by applicable law, *no substantive regulation shall be adopted, amended, or repealed until after a public hearing within the area of the State concerned.* In the case of site-specific rules, a public hearing will be held in the affected county. Except as otherwise provided by applicable law, *in the case of state-wide regulations, hearings shall be held in at least two areas.* [415 ILCS 5/28(a)]
- b) If the proponent or any participant wishes to request a hearing beyond the number of hearings specified by the hearing officer, that person must demonstrate, in a motion to the hearing officer, that failing to hold an additional hearing would result in material prejudice to the movant. The motion may be oral, if made at hearing, or written. The movant must show that he exercised due diligence in his participation in the proceeding and why an additional hearing, as opposed to the submission of written comments pursuant to Section 102.108 of this Part, is necessary.
- c) If a hearing is scheduled in a rulemaking proposed pursuant to Section 7.2 of the Act [415 ILCS 5/7.2], the hearing may be held by videoconference.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1540.370	New
1540.APPENDIX A	New
- 4) Statutory Authority: 40 ILCS 5/14-135.03
- 5) A Complete Description of the Subjects and Issues Involved: Section 1540.370 is being added to establish a procedure to comply with the Americans with Disabilities Act.
- 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 amendment 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:

Tim Blair
Acting Executive Secretary
2101 South Veterans Parkway
P. O. Box 19255
Springfield, Illinois

217/785-7016

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

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- 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 two most recent regulatory agendas because: this rulemaking is the result of notification by JCAR that all agencies are required to establish grievance procedures to comply with the Americans with Disabilities Act.

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

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

PART 1540

THE ADMINISTRATION AND OPERATION OF THE
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

Section

1540.5	Introduction
1540.10	Appointment of Retirement System Coordinator
1540.20	Member's Contribution and Service Credit
1540.30	Determination of Rate of Compensation
1540.40	Prior Service Credit
1540.50	Credit for Service for Which Contributions are Permitted
1540.60	Severance of Employment – A Condition to the Payment of a Refund or Retirement Annuity
1540.70	Death Benefits
1540.80	Disability Claims
1540.90	Benefit Offset
1540.100	Birth Date Verification
1540.110	Marriage Verification
1540.120	Level Income Option
1540.130	Pension Credit for Unused Sick Leave
1540.140	Removal of Children from Care of Surviving Spouse
1540.150	Proof of Dependency
1540.160	Investigations of Benefit Recipients
1540.170	Interest on Member Contributions
1540.180	Date of Application – Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments
1540.190	Lump Sum Salary Payments
1540.200	Removal from the Payroll
1540.210	Latest Date of Membership
1540.220	Period for Payment and Amount of Payment of Contributions
1540.230	Contributions by the State (Repealed)
1540.240	Actuarially Funded Basis (Repealed)
1540.250	Payments to Establish Credit for Service for Which Contributions are Permitted
1540.255	Pick-up Option for Optional Service Contributions
1540.260	Contributions and Service Credit During Nonwork Periods

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- 1540.270 Written Appeals and Hearings
1540.280 Availability for Public Inspection (Recodified)
1540.290 Procedure for Submission, Consideration and Disposition of Petitions Seeking the Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)
1540.300 Organization of the State Employees' Retirement System (Recodified)
1540.310 Amendments
1540.320 Optional Forms of Benefits – Basis of Computation
1540.330 Board Elections
1540.340 Excess Benefit Arrangement
1540.350 Qualified Illinois Domestic Relations Orders (QILDRO)
1540.360 Election to be an Employee under Section 14-103.05(b)(3) of the Illinois Pension Code
[1540.370 Americans With Disabilities Act](#)
[1540.APPENDIX A Grievance Form](#)
1540.TABLE A Optional Forms of Benefits – Basis of Computation

AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40 ILCS 5/Art. 14].

SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677, effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill. Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990; amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187, effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective

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December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1, 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090, effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21, 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008; emergency amendment at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days; emergency expired November 15, 2009; amended at 34 Ill. Reg. 285, effective December 15, 2009; amended at 34 Ill. Reg. _____, effective _____.

Section 1540.370 Americans With Disabilities Act_____ a) Purpose

- 1) This grievance procedure is established pursuant to the Americans With Disabilities Act of 1990 (ADA) (42 USC 12101 et seq.) and specifically Section 35.107 of the Title II regulations (28 CFR 35.107), requiring the adoption of a procedure to resolve grievances asserted by qualified individuals with disabilities. Interested parties may contact the ADA Coordinator to review the ADA or its regulations to understand the rights, privileges and remedies afforded by them.
- 2) In general, the ADA requires that each program, service and activity offered by the State Employees' Retirement System (System), when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.
- 3) It is the intention of the System to foster open communication with all individuals requesting readily accessible programs, services and activities. The System encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

b) Definitions

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"ADA" means the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.).

"ADA Coordinator" means the person appointed by the Executive Secretary of the System to coordinate the System's efforts to comply with and carry out its responsibilities under Title II of the ADA, including any investigation and prompt equitable resolution of grievances filed by complainants. The ADA Coordinator may be contacted at State Employees' Retirement System, ADA Coordinator, 2101 S. Veterans Parkway, Springfield IL 62704. (See 28 CFR 35.107.)

"Complainant" means a qualified individual with a disability who files a Grievance Form provided by the System.

"Disability" shall have the same meaning as set forth in the ADA.

"Executive Secretary" means the Executive Secretary of the System or a duly authorized designee.

"Grievance" means any written complaint under the ADA by an individual with a disability who meets the eligibility requirements for participation in, or receipt of, the benefits of a program, activity or service offered by the System and who believes he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the System, or who has been subject to discrimination by the System.

"Grievance Form" means the form prescribed for the purpose of filing a grievance under this Part and includes information such as name, address, telephone number, and nature of the grievance, with specificity, including date of incident, time, place and witnesses if applicable.

"Major Life Activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working.

"Qualified Individual with a Disability" means an individual with a disability who, with or without reasonable modifications to rules, policies or practices, the removal of architectural, communication or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the System.

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"Reasonable Modification" means modifications or adjustments to services, programs or activities that enable a qualified individual with a disability to participate in, or enjoy the benefits of the service, program or activity.

"System" means the State Employees' Retirement System of Illinois.

c) Procedures

- 1) The ADA Coordinator will endeavor to respond to and resolve grievances without the need to resort to the formal grievance procedure established by this Part. A person who wishes to avail himself or herself of the formal procedure, however, may do so only by filing a grievance within 180 calendar days after the alleged discrimination in the form and manner prescribed in this Section.
- 2) The ADA Coordinator shall provide a copy of the grievance procedure and the required complaint form to anyone who requests it or expresses a desire to file a formal grievance.
- 3) Grievances must be submitted in accordance with procedures established in this Section. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this procedure are in calendar days, unless otherwise stated, and may be extended by mutual agreement, in writing, by the complainant and the reviewer, at the reviews described in subsections (d) and (e).
- 4) A complainant's failure to submit a Grievance Form, or to submit or appeal it to the next level of review within the specified time limits, shall mean that the complainant has withdrawn the grievance or has accepted the System's last response as given in the grievance procedure.
- 5) A complainant must exhaust the remedies provided under this Part as a prerequisite for filing any action before a court or other administrative body.
- 6) The System shall, upon being informed of an individual's desire to file a formal grievance, instruct the individual how to receive a copy of this procedure and the Grievance Form.

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d) ADA Coordinator Review

- 1) If an individual desires to file a grievance, the individual shall promptly, but no later than 180 days after the date of the alleged discrimination, submit a grievance to the ADA Coordinator on the Grievance Form prescribed for that purpose. The Grievance Form must be completed in full in order to receive proper consideration by the ADA Coordinator.
- 2) Upon request, the System shall assist an individual in completing the Grievance Form.
- 3) The grievance shall contain the following information:
 - A) The complainant's name, address and telephone number.
 - B) Information as to the best time and means for contacting the complainant.
 - C) The program, activity or service that was denied the complainant, or in which alleged discrimination occurred.
 - D) The date and nature of the denial or alleged discrimination.
 - E) An explanation of why the complainant believes he or she is a qualified individual with a disability.
 - F) The signature or execution of or on behalf of the complainant.
- 4) The complainant shall attach copies of any documents received from or submitted to the System that pertain to the program, activity or service referred to in the grievance.
- 5) The ADA Coordinator, or his/her representative, shall investigate the grievance and, if the grievance is found to be valid, shall make reasonable efforts to resolve it. The ADA Coordinator shall provide a written response to the complainant and Executive Secretary within 15 business days after receipt of the Grievance Form.

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e) Final Review

- 1) If the grievance is not resolved pursuant to this Section to the satisfaction of the complainant, the complainant may submit a copy of the Grievance Form and ADA coordinator's response to the Executive Secretary for final review. The complainant shall submit these documents to the Executive Secretary, together with a short written statement explaining the reasons for dissatisfaction with the ADA Coordinator's written response, within 10 business days after service of the ADA Coordinator's response. Service is deemed complete five business days after mailing.
- 2) Within 15 business days after receipt of the complainant's request to the Executive Secretary for final review, the Executive Secretary shall appoint a three-member panel to evaluate the grievance. The Executive Secretary shall designate one panel member as chairman. The panel shall schedule a review of the grievance, which shall commence no later than 15 business days after the last panel member is appointed.
- 3) Complainant shall be afforded an opportunity to appear before the panel. Complainant shall have the right to appoint a representative to appear on his or her behalf. The panel shall review the complainant's Grievance Form and the ADA Coordinator's written response and may conduct interviews and seek advice as it deems appropriate.
- 4) Upon agreement of at least two of the panel members, but not later than 15 business days after the review described in subsection (b), the panel shall make written recommendations to the Executive Secretary regarding the proper resolution of the grievance. All recommendations shall include reasons for the recommendation and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a recommendation to the Executive Secretary in writing and shall sign his or her recommendation.
- 5) Within 15 business days after receipt of the panel's recommendations, the Executive Secretary shall approve, disapprove or modify the panel recommendations; shall render a decision on those recommendations in writing; shall state the basis for his or her decision; and shall cause a copy of the decision to be served on the parties. The Executive Secretary's decision shall be final. If the Executive Secretary disapproves or modifies

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the panel's recommendations, the Executive Secretary shall include written reasons for the disapproval or modification.

6) The Grievance Form, the ADA Coordinator's response, the complainant's statement of the reasons for dissatisfaction, the panel's recommendations, and the Executive Secretary's decision shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

f) Accessibility

The System shall ensure that all stages of the grievance procedure are readily accessible and usable by individuals with disabilities.

g) Case-By-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity, or cause undue hardship for the System. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other Complainants should rely.

(Source: Added at 34 Ill. Reg. _____, effective _____)

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Section 1540.APPENDIX A Grievance Form

**Grievance
Discrimination Based on Disability**

It is the policy of the State Employees' Retirement System to provide assistance in filling out this form. If assistance is needed, please ask:

State Employees' Retirement System, ADA Coordinator
2101 S. Veterans Parkway, P. O. Box 19255
Springfield IL 62704
217-785-7444, 217-785-7218 (TDD)

Name: _____

Address: _____

City, State and Zip Code: _____

Telephone No.: _____

Program, Service or Activity to which Access was Denied or in which Alleged Discrimination

Occurred: _____

Date of Alleged Discrimination: _____

Nature of Alleged Discrimination: _____

(Attach additional sheets, if necessary, and copies of any documents received or submitted to the System that pertain to the program, activity or service referred to in this grievance. If the grievance is based on a denial of requested reasonable modification, please fill out the back of this form.)

I certify that I am qualified or otherwise eligible to participate in the program, service or activity and the above statements are true to the best of my knowledge and belief.

Signature

Date

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| [Please give to the ADA Coordinator at the address listed above.](#)

(Source: Added at 34 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3) Section Number: 1600.320 Proposed Action: Amendment
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) A Complete Description of the Subjects and Issues Involved: An amendment revising the disability claims review process by clarifying the necessary criteria for the award of disability benefits, establishing the role of the medical claims processor, and establishing procedures for the ongoing investigation of disability claims.
- 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 affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Kelly A. Jenkins, General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign, IL 61820

217-378-8825

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- 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 2010

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

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEMPART 1600
UNIVERSITIES RETIREMENT

SUBPART A: GENERAL

Section

- 1600.100 Definitions
- 1600.110 Freedom of Information Act
- 1600.120 Open Meetings Act
- 1600.130 Procurement

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section

- 1600.202 Return to Employment
- 1600.203 Independent Contractors
- 1600.205 Compensation Subject to Withholding
- 1600.210 Crediting Interest on Participant Contributions and Other Reserves
- 1600.220 Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
- 1600.230 Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
- 1600.240 Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
- 1600.250 Sick Leave Accrual Schedule
- 1600.260 Part-time/Concurrent Service Adjustment
- 1600.270 Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%

SUBPART C: CLAIMS PROCEDURE AND EVIDENTIARY REQUIREMENTS

Section

- 1600.300 Effective Beneficiary Designations
- 1600.305 Full-Time Student Survivors Insurance Beneficiaries
- 1600.310 Dependency of Beneficiaries
- 1600.320 ~~Procedures to be Followed in Medical Evaluation of~~ Disability Claims Procedure

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SUBPART D: BENEFIT CALCULATION AND PAYMENT

Section

- 1600.400 Determination of Final Rate of Earnings Period
- 1600.410 Twenty Percent Limitation on Final Rate of Earnings Increases
- 1600.420 Making Preliminary Estimated Payments
- 1600.430 Excess Benefit Arrangement
- 1600.431 Indirect Payments to Minors and Legally Disabled Persons
- 1600.432 Indirect Payments to Child Survivors Through the Surviving Spouse
- 1600.440 Voluntary Deductions from Annuity Payments
- 1600.450 Overpayment Recovery

SUBPART E: ADMINISTRATIVE REVIEW

Section

- 1600.500 Rules of Practice – Nature and Requirements of Formal Hearings

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

- 1600.600 Definitions
- 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1600.610 Invalid Orders
- 1600.615 Filing a QILDRO with the System
- 1600.620 Modified QILDROs
- 1600.625 Benefits Affected by a QILDRO
- 1600.630 Effect of a Valid QILDRO
- 1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1600.640 Alternate Payee's Address
- 1600.645 Electing Form of Payment
- 1600.650 Automatic Annual Increases
- 1600.655 Expiration of a QILDRO
- 1600.660 Reciprocal Systems QILDRO Policy Statement
- 1600.665 Providing Benefit Information for Divorce Purposes

AUTHORITY: Implementing and authorized by Section 15-177 of the Illinois Pension Code [40 ILCS 5/15-177].

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SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12, 2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; emergency expired September 23, 2009; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009; amended at 34 Ill. Reg. _____, effective _____.

SUBPART C: CLAIMS PROCEDURE AND EVIDENTIARY REQUIREMENTS

Section 1600.320 ~~Procedures to be Followed in Medical Evaluation of~~ Disability Claims Procedure

- a) ~~Pursuant to~~ Section 15-150 of the Code, ~~provides that~~ a participant may be granted a disability benefit if, while a participating employee, he or she becomes physically or mentally incapacitated and unable to perform the duties of his or her assigned position for any period exceeding 60 consecutive calendar days and the employee had completed 2 years of service at the time of disability, unless the disability is a result of an accident. An employee shall be considered disabled only during the period for which the Board determines, based upon the evidence listed in this Section, that the employee is-has received a written certificate by at least 2 licensed and practicing physicians appointed by the Board stating that the participant is disabled and unable to reasonably perform the duties of his or her assigned position as a result of a physical or mental disability and a written certificate by the employer that the participant is unable to perform the duties of

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~~his or her assigned position. This determination shall be based upon:~~

- ~~1) a written certificate from one or more licensed and practicing physicians appointed by or acceptable to the Board, stating that the employee is disabled and unable to reasonably perform the duties of his or her assigned position;~~
- ~~2) a written certificate from the employer stating that the employee is unable to perform the duties of his or her assigned position; and~~
- ~~3) any other medical examinations, hospital records, laboratory results, or other information necessary for determining the employment capacity and condition of the employee.~~

~~b) Application Filing Requirements~~

- ~~1) An application for disability benefits must include the certifications described in subsections (a)(1) and (a)(2), and supporting documentation described in subsection (a)(3), all as explained in more detail in this Section, for each disabling condition and for the entire period of disability.~~
- ~~2) The application must be filed within one calendar year after the date on which the disability occurred.~~

~~b) The Code authorizes the Board to employ medical services as shall be required for the efficient administration of SURS.~~

~~e) Appointment of Medical Director. The Board has appointed a Medical Director whose responsibility is to review the medical reports received from the examining physicians, and to advise the Board as to whether the medical requirements of the Code have been met.~~

~~c) Certification By Physicians. For purposes of subsection (a)(1), the following shall apply:Appointment of Examining Physicians~~

- ~~1) Physicians acceptable to the Board are attending physicians, physicians designated by the participant and physicians to whom the participant was referred by the attending or designated physician. Physicians appointed by SURS staff to examine the participant are deemed to be physicians~~

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appointed by the Board. The physician must be licensed to practice and be currently practicing in the field of expertise related to the underlying physical or mental condition for which disability benefits are sought.

- 2) The certification must be signed by a physician described in subsection (c)(1) or an authorized representative of the physician and must state the following:
 - A) the medical diagnosis of the physical or mental condition;
 - B) the prognosis of the physical or mental condition;
 - C) the physical or mental limitations to which the participant should adhere; and
 - D) that the participant is disabled and is unable to reasonably perform the duties of his or her assigned position as a result of the physical or mental disability.

- 3) The certification must be accompanied by a report containing the following:
 - A) the date of examination;
 - B) the medical history of the participant;
 - C) the results of any diagnostic tests used;
 - D) the diagnosis of the physical or mental condition;
 - E) the plan of treatment for the physical or mental condition and prognosis in response to the treatment plan;
 - F) an evaluation of the physical or mental condition as it bears upon the participant's ability to reasonably perform the duties of his or her assigned position; and
 - G) any existing documentation of objective medically demonstrable anatomical, physiological or psychological abnormalities

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manifested as test results or laboratory findings apart from self-reported symptoms.

- d) Certification by Employers. For purposes of subsection (a)(2), the certification must be signed by an officer authorized by the employer and must state the following:
- 1) the physical or mental performance requirements for the reasonable performance of the participant's assigned position;
 - 2) whether the participant is able to satisfy each physical or mental performance requirement for the reasonable performance of his or her assigned position to the best of the employer's knowledge or belief and the reason for that knowledge or belief; and
 - 3) whether the participant is able to reasonably perform the duties of his or her assigned position based on the provisions of subsections (d)(1) and (d)(2).
- ~~1) Unless otherwise authorized by the Executive Committee or the Board on recommendation of the Medical Director, the following shall be the examining physicians:~~
- ~~A) The attending physician or physicians designated by the participant; and~~
 - ~~B) The health officer of the employer or some other physician who is designated by the employer.~~
- ~~2) If the participant has not been examined by the employer's health officer or by some other physician who is designated by the employer, the Medical Director shall appoint some other physician to conduct the examination and to submit a recommendation regarding the disability of the participant.~~
- ~~3) If, in the opinion of the Medical Director, the nature of the disability or other circumstances justify the appointment of someone other than the participant's attending physician or employer's health officer as the examining physicians, the Medical Director shall appoint a special~~

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~~examining physician or physicians.~~

- e) Determination of Disability. If ~~the examining physicians certify that~~ the participant ~~establishes, by a preponderance of the evidence, that he or she is physically or mentally disabled and unable to perform the duties of his or her assigned position as a result of the disability,~~ the participant shall be determined eligible for disability benefits under Section 15-150 of the Code.
- 1) SURS staff shall determine whether certifications made under subsections (a)(1) and (a)(2) and supporting documentation described in subsection (a)(3) establish eligibility for disability benefits.
 - 2) At the discretion of SURS staff, the participant may be required to submit to additional examinations by staff appointed physicians or specialists to aid in the determination process.
 - 3) Physical or mental conditions resulting from self-inflicted injuries, substance abuse, or any act for which the participant was convicted of a misdemeanor or felony are not the result of an accident for purposes of Section 15-150 of the Code.
- f) ~~Disagreement among Examining Physicians. If the examining physicians are not in agreement as to whether the participant is disabled, the Medical Director shall appoint some other licensed and practicing physician to conduct a special medical examination and submit a recommendation as to whether the participant is able to perform the duties of his or her assigned position. If the special examining physician agrees that the participant is disabled, the Medical Director shall recommend that the claim be approved.~~
- g) ~~Certification of Disability by the Employer. The Code provides that a participant may qualify for disability benefits only if the employer certifies that the participant is unable to perform the duties of his or her assigned position. This certification shall be completed by any officer authorized by the employer to make this certification. The certification of the employer may be based upon a medical examination given by the employer's health officer or upon medical reports submitted to the health officer by other examining physicians.~~
- fh) Subsequent Re-examination~~Reexamination~~ of Disabled Participants

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- 1) ~~SURS staff shall~~ It shall be the responsibility of the Medical Director to secure from one or more ~~examining~~ physicians, periodically, re-evaluation reports concerning the continued disability of the participant. The date of re-evaluation ~~reevaluation of the participant's ability to perform his or her~~ duties shall be determined by SURS staff ~~the Medical Director~~ on the basis of the medical reports received previously, the nature of the disability, and ~~or~~ other relevant information.
 - 2) In the re-evaluation ~~reevaluation~~ of disability claims, the examining physician shall be the attending physician or the physician designated by the participant, but, if, ~~in the opinion of the Medical Director,~~ the nature of the disability or other circumstances justify the appointment of someone other than the participant's attending physician or designated physician as the examining physician, SURS staff ~~the Medical Director~~ shall make the appointment. ~~The certification of disability by the employer may be based upon the medical reports received from the employer's health officer or other physicians.~~ All other procedures that may be applicable in processing the initial claim for disability benefits shall be followed in re-evaluation ~~reevaluation~~ of the claim.
- g) Release of Medical Information. The participant may be required to authorize the release of all medical or other information related to the disability claim, including but not limited to medical reports, hospital records, Department of Employment Security earnings statements, income tax records, unemployment records, and any record deemed necessary to the administration of the disability claim. The failure of the participant to submit to a re-evaluation examination or a treatment plan, to produce records, or to approve release of information required may result in the suspension of disability benefit payments.
- i) ~~Amendment or Repeal of Medical Evaluation Regulations. This Section is issued by the Board in accordance with the provisions of the Code. The right is reserved to rescind or amend this Section in whole or in part at anytime. However, no rescission or amendment shall be effective until the rescission or amendment has been filed with the Secretary of State. Amendment or repeal will be made in accordance with the Illinois Administrative Procedure Act [5 ILCS 100].~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Accommodation of Utilities on Right-of-Way
- 2) Code Citation: 92 Ill. Adm. Code 530
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
530.10	Amend
530.20	Amend
530.30	Amend
530.40	Amend
530.100	Amend
530.110	Amend
530.120	Amend
530.150	Amend
530.220	Amend
530.225	Amend
530.230	Amend
530.240	Amend
530.270	Amend
530.275	Amend
530.290	Amend
530.300	Amend
530.310	Amend
530.320	Amend
530.330	Amend
530.400	Amend
530.410	Amend
530.420	Amend
530.430	Amend
530.440	Amend
530.450	Amend
530.460	Amend
530.480	Amend
530.500	Amend
530.530	Amend
530.600	Amend
530.700	Amend
530.710	Amend
530.830	Amend
530.840	Amend

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530.900	Amend
530.APPENDIX A	New
530.ILLUSTRATION A	Repeal

- 4) Statutory Authority: Implementing Section 9-113 and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1 and 9-113]

- 5) A Complete Description of the Subjects and Issues Involved: The following summaries highlight the significant changes the Department is proposing to update this Part:

At Section 530.10, Purpose, the Department is removing superfluous language at subsection (f).

At Section 530.20, Incorporation by Reference, the Department is updating the material incorporated by reference, as well as updating source information.

At Section 530.30, Definitions, the Department is revising, adding and deleting definitions for clarification purposes and to update the Part.

At Section 530.40, Legal Obligations, the Department is adding more specificity concerning a permittee's obligation to provide location information of its underground facilities; and also adding requirements, required by statute and prescribed by the Department, to reflect current practice.

At Section 530.100, Permit Application, the Department is adding requirements concerning the submission of more specific information pertaining to construction methods, methods of traffic maintenance, and detailed scale drawings of the proposed work. In reviewing the program, the Department determined that more detailed information is necessary for review as the right-of-way becomes more congested with utility facilities.

At Section 530.120, Fees or Assessments, the Department is increasing the minimum fee for any utility attachment to a highway structure, including bridges and box culverts, to reflect the increased costs incurred by the Department in evaluating the proposed utility attachment, including engineering and legal expenses.

At Section 530.230, Location of Facilities, the Department is adding a requirement that all utilities must be installed at Department approved locations and in a Department approved manner thereby minimizing the need for adjustments to accommodate future

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highway improvements and allowing servicing of the utility with minimal interference to the flow of highway traffic. The Department also added a provision concerning compliance with the Americans with Disabilities Act of 1990 as it pertains to the location of utility facilities.

At Section 530.240, Traffic Control, the Department added a provision that flaggers must be certified. Additionally, provisions have been added concerning lane closures. The permittee must provide two weeks prior notice, via a changeable message sign, placard or other Department approved method, informing the public of lane closures.

At Section 530.270, Requirement for a Surety Bond, the Department added a provision, due to a changing economy, that increases the amount of assets required to use a utility's annual report in lieu of a surety bond.

At Section 530.290, Maintenance, the Department is adding a provision to clarify that the Department will grant permission in the form of a permit before the permittee undertakes repairs of its facility in the right-of-way. Additionally, the Department added language clarifying that the permittee must notify the Department in writing within 48 hours after completion of any emergency repairs undertaken in the right-of-way.

At Section 530.300, As-Built Plans, if the permitted facility cannot be placed as shown in the application, written approval from the District office must be obtained prior to any alteration of the facilities. As-built plans shall be provided to the District office within 180 days after completion of the work. Additionally, the Department is adding provisions, due to crowding of utility facilities on State right-of-way, concerning the maintenance of permanent records by the permittee of abandoned/retired facilities on State right-of-way.

At Section 530.310, Obligation to Remove, Relocate, or Modify, the Department is updating the provisions and clarifying the permittee's, and the Department's, obligations regarding removal, relocation and modification of the permittee's facilities as prescribed by 605 ILCS 5/9-113.

At Section 530.320, Apportionment of Costs, the Department is clarifying the permittee's financial obligation when delays occur as a result of the permittee failing to fulfill its obligations under the permit and this Part.

At Section 530.400, Underground Facilities – Power and Communication Lines, the Department is changing a provision to increase the minimum installation cover to 30

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inches for all utility lines. Additionally, the Department is removing provisions pertaining to longitudinal lines because longitudinal lines are discouraged by the FHWA due to safety concerns that arise when utility vehicles are entering and exiting the right-of-way. Finally, a provision has been added that requires that appurtenances be installed flush with the surrounding surfaces.

At Section 530.410, Underground Facilities – Gas Transmission Lines, the Department has added a provision that requires that information on crossing pipe markers be kept legible and current. A provision has also been changed concerning a condition under which encasement may be eliminated.

At Section 530.420, Underground Facilities – Petroleum Products Pipelines, a provision has been changed concerning the condition under which encasement may be eliminated. The tunneling provisions will be removed from this Section because tunneling causes settling problems that could lead to failure of the pavement.

At Section 530.430, Underground Facilities – Waterlines, the Department added a provision that requires all appurtenances to be installed flush with the adjacent undisturbed surfaces.

At Section 530.440, Underground Facilities – Sewer Lines and Drainage Lines, the Department added a provision that requires all appurtenances to be installed flush with the adjacent undisturbed surfaces.

At Section 530.450, Above-Ground Facilities – Power and Communication Lines, the Department removed a provision prohibiting guy wires and brace posts on the right-of-way because, in some situations, variances may be granted allowing them. Additionally, a provision has been added that prohibits poles within the clear zone in curbed areas for highway safety purposes. Finally, since this situation is not covered under the current rule, a provision has been added that requires each occupant of a joint use pole to obtain a permit.

At Section 530.460, Above-Ground Facilities – Light Poles and Lighting Power Lines, the Department removed a provision that prohibited guy wires and brace posts on the right-of-way because, in some situations, variances may be granted allowing them. Additionally, a provision has been added that prohibits light poles within the clear zone in curbed areas for highway safety purposes.

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At Section 530.500, Construction Methods for Utility Installations, the Department is updating provisions to include commonly-understood industry terminology and references to updated technology; a provision has been added providing that borings will be accomplished through the use of a Department approved method; requirements for bore pits have been added; requirements for pavement cuts have been moved; requirements for backfilling have been changed; and requirements for parking of the permittee's vehicles and equipment on right-of-way have been added.

At Section 530.530, Track and Rail Inspection and Maintenance, the Department is specifying track and rail facilities that must be inspected and maintained. The Department is also adding language to this Section to clarify that the Department will determine, based on Department-conducted inspections and calculations and accepted engineering methods and practices, whether overpass and underpass structures will be able to support the loads for which they are designed and used.

At Section 530.600, Tree Trimming, the Department has added a provision concerning the responsibility of the permittee to remove any remaining tree stump to within 6 inches below natural ground level, if removal is required.

At Section 530.700, General, the Department has added provisions to require the permittee to obtain a new permit if additional or larger facilities are necessary. Charges will be assessed based upon the permittee's total facility, including all additions and enlargements, so that the Department can recoup any costs associated with the engineering analysis conducted during review of an application. The Department also added provisions (to Section 530.700 from Section 530.830) concerning removal of a permittee's facilities if the facilities are not in use and removal is mandated by the Department. These new provisions obligate the permittee to remove its facilities at no cost to the Department.

At Section 530.710, Methods of Attachment, the Department added a provision that prohibits burying conduits or cables in concrete parapets because such practices have been found to be detrimental to the life of the structure.

At Section 530.830, Non-Use, the Department is deleting language concerning the conveyance of ownership to the Department of abandoned or retired facilities on right-of-way because of the costs that would be incurred by the Department for removal or relocation of the facilities.

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At Section 530.Appendix A is an updated listing of the Department's District offices and counties, including names, addresses and phone numbers.

At Section 530.Illustration A is being repealed because it is out-of-date.

- 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? Yes
- 10) Are there any proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not impact units of local government any differently than any other applicant seeking a permit under this Part.
- 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 rulemaking. Written submissions shall be filed with:

Ms. Janet L. Pisani, Acting Agreements Unit Chief
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 330
Springfield, Illinois 62764

217/782-3408

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 317
Springfield, Illinois 62764

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217/524-3838

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: No impact to small businesses or not for profit corporations. Small municipalities that own utility facilities will be impacted no differently than any other utility company seeking a permit under this Part.
- B) Reporting, bookkeeping or other procedures required for compliance: Record keeping of facilities locations will be required under this proposed rulemaking that will result in some increased administrative costs for the permittees.
- C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER f: HIGHWAYS

PART 530
ACCOMMODATION OF UTILITIES ON RIGHT-OF-WAY

SUBPART A: GENERAL PROVISIONS

Section	
530.10	Purpose
530.20	Incorporation by Reference
530.30	Definitions
530.40	Legal Obligations
530.50	Indemnification and Insurance
530.60	Utility Permits to Public Entities

SUBPART B: PERMIT APPLICATION REQUIREMENTS

Section	
530.100	Permit Application
530.110	Emergency Contingency Plans
530.120	Fees or Assessments
530.130	Variances
530.140	Access of Freeway Right-of-Way
530.150	Suitability of Materials

SUBPART C: GENERAL PERMIT CONDITIONS

Section	
530.200	Obligation to Comply
530.210	Application Provision
530.220	Departmental Standards
530.225	Release and Indemnification
530.230	Location of Facilities
530.240	Traffic Control
530.250	Cleanup and Restoration
530.260	Scenic Restrictions
530.270	Requirement for a Surety Bond

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530.275	Surety Bond
530.280	Surety Bond Coverage
530.290	Maintenance
530.300	As-Built Plans and Records Retention
530.310	Obligation to Remove, Relocate or Modify
530.320	Apportionment of Costs
530.330	Design of Facilities

SUBPART D: SPECIFIC PERMIT CONDITIONS

Section	
530.400	Underground Facilities – Power and Communication Lines
530.410	Underground Facilities – Gas Transmission Lines
530.420	Underground Facilities – Petroleum Products Pipelines
530.430	Underground Facilities – Waterlines
530.440	Underground Facilities – Sewer Lines and Drainage Lines
530.450	Aboveground Above-Ground Facilities – Power and Communication Lines
530.460	Aboveground Above-Ground Facilities – Light Poles and Lighting Power Lines
530.470	Above-Ground Facilities – Other Utilities
530.480	Track and Rail Facilities

SUBPART E: CONSTRUCTION METHODS AND MAINTENANCE WORK ON UTILITIES

Section	
530.500	Construction Methods for Utility Installations
530.510	Encasement
530.520	Post Installation Location
530.530	Track and Rail Inspection and Maintenance

SUBPART F: VEGETATION CONTROL

Section	
530.600	Tree Trimming
530.610	Chemical Vegetation Control

SUBPART G: UTILITY ATTACHMENTS TO BRIDGES OR TRAFFIC STRUCTURES

Section	
530.700	General

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530.710 Methods of Attachment

SUBPART H: APPLICATION DENIAL, REVOCATION AND SANCTIONS

Section

530.800 Denial of Applications
530.810 Sanctions and Other Remedies
530.820 Incompatibility With Highway Use
530.830 Non-Use
530.840 Change of Ownership or Owner's Identity or Legal Status

SUBPART I: ADMINISTRATIVE REMEDIES

Section

530.900 Administrative Review

530.APPENDIX A District Offices and Counties
530.ILLUSTRATION A District Boundary Map (Repealed)

AUTHORITY: Implementing Section 9-113 and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1 and 9-113].

SOURCE: Adopted at 3 Ill. Reg. 19, p. 45, effective May 7, 1979; codified at 7 Ill. Reg. 3202; Part repealed, new Part adopted at 16 Ill. Reg. 2193, effective January 27, 1992; amended at 34 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 530.10 Purpose

- a) The purpose of this Part is to establish policies and procedures for accommodating utilities on right-of-way of the Illinois State Highway System, which will provide public benefit consistent with the preservation of the function, integrity, operational safety~~safe usage~~, and visual qualities of the State Highway System.
- b) A decision regarding the accommodation of a utility at a particular location should be made consistent with sound engineering practices.

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- c) The Department's determination would include an evaluation of the direct and indirect environmental and economic effects of any loss of productive agricultural land ~~that~~^{which} would result from the disapproval of the use of the right-of-way of a highway for the accommodation of ~~asuch~~ utility. Thus, while this Part provides standards for accommodating utilities on right-of-way of the Illinois State Highway System, under the jurisdiction of the Department, this Part is not a substitute for sound engineering judgment (~~see~~^{See} Section 530.30, the definition of "Sound Engineering Judgment").
- d) Because it is impossible to anticipate all future highway needs or proposals, the Department reserves the right to deny an application or to deviate from the standards of this Part if sound engineering reasons dictate such action.
- e) This Part applies to all utility facilities on public highway right-of-way in which the Department has an interest, whether those facilities are permitted or not and whether those facilities were in place before or after the promulgation of this Part.
- f) ~~This Part supersedes the Department's Policy on the Accommodation of Utilities on Right-of-way of the Illinois State Highway System issued May, 1979 and all prior issues.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.20 Incorporation by Reference

- a) This Part incorporates references ~~that~~^{which} are the basis and guidelines for the development of the Department's policy for accommodation of utilities on right-of-way of the Illinois State Highway System. Where specific reference is made, and that reference incorporates material by reference, the material incorporated is a part of this Part and shall be that which is effective as indicated, not including any later amendments or editions. Copies of the appropriate materials are available from the Department's Central Bureau of ~~Operations~~^{Maintenance}, Division of Highways, 2300 South Dirksen Parkway, ~~Room 009~~, Springfield, Illinois 62764 and all nine highway District offices (see ~~Appendix~~^{Section} ~~Illustration~~ A).
- 1) American Association of State Highway and Transportation Officials (AASHTO) – A Guide for Accommodating Utilities Within Highway Right-of-Way (Copyright ~~2005~~¹⁹⁸¹).

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- 2) AASHTO – A Policy on the Accommodation of Utilities Within Freeway Right-of-Way (Copyright ~~2005~~1989).
- 3) U.S. Department of Transportation, Federal Highway Administration (FHWA) – Federal-Aid Policy Guide Part 645B (23 CFR 645, Subpart B (April 1, 2009))~~Highway Program Manual Transmittal 426 (HNG-12) dated November 11, 1988 (Volume 6, Chapter 6, Section 3, Subsection 2).~~
- 4) U.S. Department of Transportation, Federal Highway Administration – Federal-Aid Policy Guide Part 710.405 (23 CFR 710.405 (April 1, 2009))~~Highway Program Manual Transmittal 74 (HRW-O) dated October 4, 1974 (Volume 7, Chapter 4, Section 3).~~
- 5) Institute of Electrical and Electronics Engineers, Inc. – American National Standards, National Electrical Safety Code (ANSI C2-~~2007~~1990).
- 6) The American Society of Mechanical Engineers – American National Standards, Gas Transmission and Distribution Piping Systems (ANSI/ASME B31.8), ~~2003~~1989 edition.
- 7) The American Society of Mechanical Engineers – American National Standards, Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids~~Liquid Petroleum Transportation Piping Systems~~ (ANSI/ASME B31.4), ~~2006~~1989 edition.
- 8) The Associated General Contractors of Illinois – Standard Specifications for Water and Sewer Main Construction in Illinois, ~~6th~~4th edition, May ~~2009~~1986 publication.
- 9) International Society of Arboriculture – Guide for Plant Appraisal, 9th Edition (Copyright 2000)~~Valuation of Landscape Trees, Shrubs and Other Plants (Copyright 1988).~~
- 10) Office of Pipeline Safety Operations, U.S. Department of Transportation (~~49 CFR Parts 191 and 192~~) – Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-Related Condition Reports (49 CFR 191) and Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (~~49 CFR 192~~), revised as of

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October 1, ~~2008~~1988.

- 11) AASHTO – Roadside Design Guide (Copyright ~~2006~~1989).
- 12) Office of Federal Register National Archives and Record Administration – National Bridge Inspection Standards (23 CFR ~~650, subpart C (April 1, 2009)~~25), ~~revised as of April 1, 1984.~~
- 13) U.S. Department of Transportation, Federal Highway Administration – Federal-Aid Policy Guide Part 630, Subpart J (23 CFR 630, Subpart J (April 1, 2009)).
- 14) American Petroleum Institute API RP 1102 (November 2008).

b) ~~NOTE:~~The references listed in subsection (a)~~above~~ are also available through the following sources:

- 1) Items 1, 2 and 11:

AASHTO
444 North Capitol, N.W.
Suite ~~249~~225
Washington, D.C. 20001
www.transportation.org

- 2) Items 3, 4, 10, ~~and~~ 12 and 13:

United States Department of Transportation
Federal Highway Administration
1200 New Jersey Ave., SE
~~400 Seventh Street, S.W.~~
Washington, D.C. 20590
www.fhwa.dot.gov

- 3) Item 5:

American National Standards Institute
25 West 43rd Street, 4th Floor

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1430 Broadway
New York, New York 10018
www.ansi.org

4) Items 6 and 7:

The American Society of Mechanical Engineers
Three Park Avenue
345 East 47th Street
New York, New York 10016-599040017
www.asme.org

5) Item 8:

The Associated General Contractors of Illinois
3219 Executive Park Drive, ~~P.O. Box 2579~~
Springfield, Illinois 6270362708
www.agcil.org

6) Item 9:

International Society of Arboriculture
P.O. Box 3129908
Urbana, Illinois 61826-312961804
www.isa-arbor.com

7) Item 13:

American Petroleum Institute
1220 L Street, NW
Washington DC 20005-4070
www.api.org

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.30 Definitions

As used in this Part, the words and terms listed shall have the meanings ascribed to them as follows:

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"Abandoned/Retired Facilities" – Those facilities that are no longer carrying, transporting or delivering the permittee's product and that are disconnected from the permittee's active delivery system.

"ANSI" – American National Standards Institute.

"Applicant" – A person applying for a permit under this Part.

"ASTM" – American Society for Testing and Materials.

"Backfill" – The methods or materials for replacing excavated material in a trench or pit.

"Bore" or "Boring" – To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

"Carrier Pipe" – The pipe enclosing the liquid, gas or slurry to be transported.

"Casing" – A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

"Certified Flagger" – A person who has taken a Department-approved flagger instructional course and passed a Department-approved certification test for flagging.

"Clear Zone" – The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide, incorporated by reference in Section 530.20.

"Coating" – Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

"Code" – The Illinois Highway Code [605 ILCS 5](Ill. Rev. Stat. 1989, ch. 121, pars. 1-101 et seq.).

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"Conductor" – Wire carrying electrical current.

"Conduit" – A casing or encasement usually for an electrical conductor.

"Control of Access" – To designate, establish and regulate existing or proposed State highways as freeways or expressways, including the acquisition of all existing, future or potential easements or rights of access, crossing, light, air or view, to, from or over such freeway right-of-way, from or to any real property abutting such freeway right-of-way.

"Controlled Low-Strength Material" – Backfill material used exclusively under pavements, curbs and sidewalks, meeting the specifications described in the Department's Standard Specifications for Road and Bridge Construction, Article 1019 (January 1, 2007).

"Conventional Highway" – State highway with minimum access-control.

"Cover" – The depth of earth or backfill over buried utility pipe or conductor.

"Department" – The Illinois Department of Transportation.

"Department-Approved" – The approval of the Department requires compliance with this Part. The Department's approval shall be consistent with commonly recognized and accepted traffic control and construction principles, including material selection, and with sound engineering judgment.

Unless otherwise provided in the permit or in this Part, the following Departmental publications shall serve, inclusively and not exclusively, as examples of such principles and standards:

Standard Specifications for Road and Bridge Construction

Supplemental Specifications and Recurring Special Provisions

Bureau of Highway Design and Environment Manual

Highway Standards Manual

Standard Specifications for Traffic Control Items

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Illinois Manual on Uniform Traffic Control Devices

Flagger's Handbook

Work Site Protection Manual for [Operation Activities and Emergency Callouts](#)~~Daylight Maintenance Operations~~

[The Quality Standard for Work Zone Traffic Control Devices](#)

[Safety Engineering Policy 3-07](#)

If the Department finds a discrepancy between differing principles, it shall determine which principles apply. If requested, the Department shall state what standard will apply to the construction, maintenance, or operation of a facility in the future.

The Department's determination will not be changed unless it finds that the determination was incorrect or that a new standard is clearly superior to the earlier standard. If the Department makes such a finding, it shall notify in writing all parties to whom it had given its earlier determination.

Requests for determinations and publications may be addressed to:

Illinois Department of Transportation
Division of Highways
Chief of the Bureau of [Operations](#)~~Maintenance~~
2300 South Dirksen Parkway, [Room 009](#)
Springfield, Illinois 62764

[Requests may also be made by phone or by internet:](#)

[217/782-7231](tel:2177827231) or www.dot.il.gov/dobuisns.html

"Disrupt the right-of-way" – Anything that causes the right-of-way to be in a condition other than that appropriate for its intended use as a highway right-of-way. Such changes to the condition may include, but are not limited to, the following:

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excavating or other cutting;

placement (whether temporary or permanent) of materials, equipment, devices, or structures;

damage to vegetation; and

compaction or loosening of the soil.

"District" – Any one of the nine administrative subdivisions of the Department's Division of Highways (see Section 530.Illustration A).

~~"District Engineer" – The Chief Executive Officer of a District.~~

"Encasement" – Provision of a protective casing.

"Expanding Areas" – Areas where plans for commercial or residential development are being contemplated.

~~"Expressway" – A partially access-controlled divided highway that, in addition to interchange facilities, allows access by a limited number of at-grade intersections.~~

~~"Extra Heavy Pipe" – Pipe meeting ASTM standards for this pipe designation.~~

"Facility" – All structures, devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, ~~fiber~~fibre optic cable, poles, conduits, grates, covers, pipes, cables, wind turbines, solar panels and appurtenances ~~thereto~~) owned or operated by permittees on State highway rights-of-way under this Part. This term also refers to those things for which a permittee may be responsible notwithstanding a claim of abandonment.

"Frontage Road" – Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

"Fully Access-controlled Highways" – State highways thatwhich have been designated, established and are regulated as freeways to which access is never permitted, excepting only by way of grade separated intersections with selected roads and streets. Federal Aid Interstate and Defense Highways, Chicago Area Expressways, Supplemental Freeways and those primary highways constructed to

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freeway standards are included in the category of Fully Access-controlled Highways.

"Highways" – Rural or urban roads or streets, right-of-way, bridges, drainage structures, signs, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic under the jurisdiction of the Department. This term includes all of the right-of-way, including structures, ditches and embankments.

"ICCC" – Illinois Commerce Commission.

"Immediate" or "Immediately" – That which is done within a period of time specified by the Department. If no time period is specified, the time period shall be two hours.

"Interchange" – A system of interconnecting roadways providing for traffic movement between two or more roadways that do not intersect at grade.

"Intersection" – The point where two or more highways meet or cross, including the roadway and roadside facilities for traffic movements located in the area.

"Jacking" – Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

"Jetting" – Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

"Joint Use" – The use of pole lines, trenches or other facilities by two or more utilities.

"Occupancy" – The presence of utility facilities on, over or under highway right-of-way.

"Overlook" – A roadside turnout for motorists to safely enjoy a scenic panorama.

"Owner Corporation" – The company or corporate entity that owns or operates a utility.

"Pavement Cut" – The removal of an area of highway pavement for access to an underground utility installation.

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"Permit" – Formal authorization by the Department to construct and maintain utility facilities on State highway right-of-way.

"Permittee" – ~~An~~~~That~~ entity ~~that~~~~which~~ has a permit issued pursuant to Section 9-113 of the Code.

"Pressure" – The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

"Prompt" – See "Timely".

"Public Entity" – A legal entity that constitutes or is part of the government, whether at local, state or federal level.

"Railroad Crossing" – Where one or more railroad tracks cross a street or highway either at-grade or by grade separation. This may also apply to locations where a railroad is located longitudinally in a street or highway and is crossed by another street or highway or sidewalk, including the crossing proper and the area surrounding it.

"Railroad Facility" – Any equipment, structure, appurtenance or collateral items necessary for the operation of a railroad.

"Regional Engineer" – A Department employee who performs the duties of Chief Executive Officer of a Region and its Districts.

"Rest Area" – A roadside area or park for motorists to rest and relax in the interest of highway safety.

"Restoration" – The repair of an area or highway facility disrupted by the construction, maintenance or repair of a utility.

"Right-of-Way" – Land owned as an easement or in fee devoted to highway purposes. Although a utility may have its own right-of-way, this term is used in this Part to designate the real estate on which a highway is located.

"Roadway Structure" – That part of the highway that includes the pavement and shoulders.

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"Scenic Easement" – A right or inferred right in land abutting a State highway which has been acquired to preserve roadside environment having aesthetic or historical features.

"Shoulder" – A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

"Sound Engineering Judgment" – A ~~decision~~~~decision(s)~~ based on expertise and knowledge of engineering principles, practices and experience.

"Spur Track" – When track and rails on one side of a State highway are connected to a customer on the other side of that highway, the connecting track shall be known, for the purposes of this Part, as "spur track".

"Timely" – That which is done within a period of time specified by the Department. If no time period is specified, the period shall be 30 days.

"Travel Lane" – A portion of the paved area of the roadway having a definite width allowing for the movement of a legal width vehicle.

"Trench" – A relatively narrow open excavation for the installation of an underground utility element.

"Trenchless Installation" – A method of installation of new, or replacement of existing, underground facilities or a method of rehabilitation of existing underground facilities with minimal surface disturbance. Trenchless installation methods include, but are not limited to, directional drilling, auger boring, pipe jacking and tunneling.

"Utility" – A privately, publicly or cooperatively owned line, facility or system for producing, transmitting or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage or any other similar commodity, including any fire or police signal system or street lighting system, ~~that~~~~which~~ directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any wholly owned or controlled subsidiary. The term utility includes those facilities used solely by the utility ~~that~~~~which~~ are a part of its

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operating plant.

"Vent" – A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

"Wet Boring" – Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.40 Legal Obligations

- a) Only a permit issued by the Department under this Part will satisfy the "written consent" requirement of Section 9-113 of the Illinois Highway Code ~~(the Code)~~.
- b) A permit from the Department grants a license only to undertake certain activities in accordance with this Part on a State right-of-way, and does not create a property right or grant authority to the permittee to impinge on the rights of others who may have an interest in the right-of-way. Such others might include an owner of an underlying fee simple interest if the right-of-way is owned as an easement, an owner of an easement, or another permittee.
- c) It shall be the responsibility of the permittee to ascertain the presence and location of existing ~~aboveground~~~~above-ground~~ or underground facilities on the highway right-of-way to be occupied by the permittee's~~their~~ proposed facilities. ~~The Department will make its permit records available to a permittee for the purpose of identifying possible facilities.~~ When notified of an excavation or when requested by the Department, a permittee shall locate, mark both horizontally and vertically, and expose, as necessary, for the purposes of precise location identification, physically mark, and indicate the depth of its underground facilities within 48 hours, excluding weekends and holidays.
- d) The permittee shall avoid conflicts with any existing underground or above-ground facilities on or near the highway right-of-way.
- e) The permittee shall comply with all federal and State laws and/or local ordinances~~other applicable laws~~ relating to the placement of utility lines.
- f) The issuance of a utility permit by the Department does not excuse the permittee

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from complying with other requirements of the Department (e.g., oversize and overweight vehicles) or the requirements of other State agencies including, but not limited to, the following:

Illinois Commerce Commission

Illinois Department of Agriculture

Illinois Department of ~~Natural Resources~~Conservation

~~Illinois Department of Mines and Minerals~~

Illinois Environmental Protection Agency

Illinois Historic Preservation Agency

It is the permittee's responsibility to obtain any necessary permits from any State or federal agencies that are required for the physical construction or modification of the permittee's facilities.

- g) Rights of abutting and underlying property owners are protected by common law and Sections 9-113 and 9-127 of the Code. The Department will not be a party in any negotiations between the utility and abutting property owners.
- h) In no case shall the permit give or be construed to give an entity any easement, leasehold or other property interest of any kind in, upon, under, above or along the State highway right-of-way.
- i) Each person responsible for a utility, in place on the effective date of this Part, on a State highway right-of-way shall notify the Department in writing, if that facility does not comply with this Part. The Department shall treat such a notice as a request for a variance under Section 530.130. Until informed that a variance will not be granted, a person responsible for a pre-existing utility will not be in violation of this Part. The failure to provide such notice constitutes a violation of this Part and of the utility accommodation permit (if any) and would justify the imposition of the sanctions set forth in Section 530.810.
- j) Each permittee shall designate in writing to the Secretary of Transportation, or his or her designee, an agent for notice and the delivery of information. (See Section

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9-113(b) of the Code.)

- k) Each permittee shall participate in Coordination Councils in a manner that will best facilitate and accomplish the requirements of this Part. (See Section 9-113(b) of the Code.)
- l) Each permittee shall cooperate to the fullest extent with any employee or consultant employed by the Department performing subsurface utility engineering (SUE). Cooperation shall include, but not be limited to, access to the facilities and location records, at no cost to the Department or its consultant.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART B: PERMIT APPLICATION REQUIREMENTS

Section 530.100 Permit Application

- a) The permit application shall be in a form prescribed by the Department. Upon request, forms will be supplied by the Department. The application shall require the applicant to provide specific information necessary for the Department to determine whether a permit should be issued. As a minimum, the following information shall be provided:
- 1) Name of applicant.
 - 2) Legal status of applicant, such as an individual, joint venture, partnership, incorporation, or governmental unit.
 - 3) Address, zip code, and telephone number of the applicant.
 - 4) Proposed use of highway (describe what applicant wants to do), including location, physical description, construction methods, method of traffic maintenance and type and size of materials to be used. ~~Scale drawings are preferred.~~
 - 5) Scale drawings, showing the proposed facility location and, if applicable, the existing facility location; the proposed offset from the right-of-way or the center of the roadway pavement; the proposed depths or vertical clearance dimensions; the proposed bore pit locations and dimensions; the

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roadway names and crossroad names; the limits of the proposed utility work; and any other information, such as the location of appurtenances, as required by the respective District.

6) Applications for gas pipeline permits shall include the proposed pipe size, design, construction class and operating pressures.

75) Time schedule for initiation and completion of various steps of the work proposed.

b) If required (see Section 530.270 "Requirement for a Surety Bond"), the permit application will be accompanied by a surety bond (photocopy of continuing bond is acceptable) that includes the Department as an additional named insured guaranteeing that the proposed work will comply with the terms of the permit, that the applicant will reimburse any injured party for damages relating to the permitted work, and that the applicant will remove or modify the permitted facility in a timely manner if required to do so by the Department or its successor.

c) The applicant shall show either:

1) compliance with other State agencies, or

2) that the regulations of ~~no~~ other State agencies are not relevant to what has been proposed by the applicant.

~~d) Applications for gas pipeline permits shall state the proposed pipe size, design, construction class and operating pressures.~~

de) Applications should be submitted to the Department at the Highway District Office responsible for the area of the permit. Applications involving more than one District should be submitted to:

Illinois Department of Transportation
Bureau of ~~Operations~~Maintenance, Services Section
2300 South Dirksen Parkway, Room 009
Springfield, Illinois 62764
(217)/782-7228

A listing of map showing the areas covered by the nine Highway District Offices

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and the addresses of those offices is included ~~in Appendix at Section 530-~~
~~Illustration A.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.110 Emergency Contingency Plans

- a) Each applicant, who can anticipate emergency situations that may require an immediate response, shall include an emergency contingency plan with the permit application. This emergency contingency plan shall specify the nature of potential emergencies and the intended response by the applicant. The intended response shall include notification ~~to~~of the Department and protection of the safety and convenience of the highway users.
- b) Compliance with ~~ICCHCC~~ regulations for emergency contingency plans constitutes compliance with this Section unless the Department finds that additional information or assurances are needed.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.120 Fees or Assessments

- a) The Department charges no fees for the administration of the utility occupancy policy for conventional highways.
- b) Compensation, based upon an appraisal by the Department of the fair market value of an easement or leasehold for such use of the highway right-of-way, will be charged for longitudinal utility accommodations located upon, under, or along fully access-controlled highways. ~~TheSuch~~ compensation may include in-kind compensation. All fees may be reviewed once every five years and may be adjusted by the Department based on changes in the fair market value for the use of the highway right-of-way. The Department will charge reimbursement fees for engineering, legal, and other expenses incurred in evaluating applications and in establishing ~~thesueh~~ compensation.
- c) Charges will also be assessed for the attachment of utility facilities to bridge structures.
 - 1) Assessment charges for utility attachments to highway structures are not

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intended to produce revenue. The charges are assessed to cover the cost of the engineering analysis required and as compensation for the addition of weight that reduces the available live-load capacity of existing bridges and enters into the cost of proposed new bridges.

- 2) The assessment charge for utility attachment is based on the ratio of the weight of the proposed utility elements to the live-load for which the structure was or will be designed. The factor arrived at from the foregoing ratio is applied against the cost of the load-bearing elements of the structure, including piers or abutments.
- 3) The minimum charge for any utility attachment to a highway structure will be ~~\$1,000~~300.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.150 Suitability of Materials

Only those materials that are Department approved, as defined in Section 530.30, ~~materials~~ shall be used in utility installations in the right-of-way of the State Highway System.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART C: GENERAL PERMIT CONDITIONS

Section 530.220 Departmental Standards

- a) The permittee shall operate in a manner that is Department approved, as defined in Section 530.30, ~~manner~~ for traffic control, for use of the right-of-way, and for cleanup and restoration in a timely manner in accordance with Sections 530.240 and 530.250.
- b) The Department's standards may be communicated in either written or spoken directives. A spoken directive shall be followed by a consistent written confirmation within 15 calendar days.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.225 Release and Indemnification

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In consideration of the granting of the license, represented by the permit, to use State right-of-way~~property~~, the permittee~~Permittee~~, by use and as a condition of the permit, agrees to release and forever discharge the State of Illinois, its officers, agents and employees, from any and all actions, courses of action, claims and demands for, upon or by reason of any damage, loss or injury to its facilities and equipment placed or brought onto State right-of-way~~property~~ pursuant to or on account of the permit. Further, the permittee~~Permittee~~ agrees to indemnify, defend, and hold the Department harmless from all claims by persons adversely affected by the Department's removal, relocation, or modification of the permitted facility pursuant to Section 530.310 and by damage to facilities that~~which~~ have not been placed in the area specified by the permit.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.230 Location of Facilities

a) All utility installations shall be located as follows:

- 1) All utilities shall be installed at a Department-approved location and in a Department-approved manner. The location and manner shall be such that the need for adjustments to accommodate future highway improvements is minimized and servicing of the utility can be accomplished with minimal interference to the flow of highway traffic.
- ~~21)~~ Longitudinal utilities shall be located as near the right-of-way line as practicable and not more than eight feet from and parallel to the right-of-way line.
- ~~32)~~ No new above-ground utility facilities shall be located in the area established as clear zone for that particular section of highway.
- ~~43)~~ No new longitudinal utility installations will be permitted under paved longitudinal portions of streets or highways under Department jurisdiction; however, new cables will be allowed in existing ducts if they can be installed without disrupting the pavement.
- ~~54)~~ Utility crossing facilities installed between the ditch lines or curb lines of State highways shall be designed and constructed and shall incorporate materials and protective appurtenances so as to virtually preclude future disruption in these areas. Protection may include encasement, additional

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cover, or other measures that might not be required outside the areas.

- 65) Utilities will not be permitted to cross under State highways, in cattle passes, culverts or other drainage facilities.
 - 76) Manholes will not be permitted in the traffic lanes or shoulders of State highways. Existing manholes may be permitted to remain.
 - 87) Bridges or tunnels to carry utilities other than railroads or public utilities, over or under State highways, shall be considered as a use of "air rights" and shall be processed on federally aided highways as prescribed in Federal-Aid Policy Guide Part 710.405 (23 CFR 710.405 (April 1, 2009)) Highway Program Manual Volume 7, Chapter 4, Section 3. The same provisions shall apply to non-federally aided State highways, except ~~the~~ approval of FHWA will not be a requirement.
 - 98) Utility crossings shall be at or as near as practicable to a 90 degree angle with the highway centerline.
 - 109) No utility appurtenances such as pumping stations and transformers serving a longitudinal facility will be allowed in interchanges.
 - 1140) The inability to ~~install or construct~~locate a longitudinal facility within the prescribed distance from the right-of-way line may be grounds for denial.
 - 12) The location of utility facilities and appurtenances shall be in accordance with the horizontal clearances described under the Americans With Disabilities Act of 1990 (the ADA) (42 USC 12101 et seq.).
- b) Installations not conforming with subsection (a) of this Section will require the granting of a variance by the Department, as prescribed in Section 530.130.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.240 Traffic Control

- a) The permittee is responsible for providing and installing warning signs, protective devices and certified flaggers, as specified in the permit, to provide protection of the traveling public and the utility's workers when on the right-of-way.

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- b) In the event that the traffic protection requirements are not contained in the permit, the permittee shall provide proper traffic control and protection in a safe and convenient manner ~~that~~which shall be Department approved as defined in Section 530.30.
- c) Certified flaggers~~Flaggers~~ shall control traffic in a safe and convenient manner that is Department approved as defined in Section 530.30.
- d) Prior to any lane closure, the permittee shall provide two weeks notice to the public, via a changeable message sign, placard or other Department-approved method, in conformance with Safety Engineering Policy 3-07, effective October 12, 2008 and 23 CFR 630, subpart J (April 1, 2009).

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.270 Requirement for a Surety Bond

Surety bonds in the amount prescribed in Section 530.280 will be required for:

- a) Individual utilities whose assets are less than ~~\$1,000,000~~\$500,000. A copy of the utility's latest annual report indicating assets of at least ~~\$1,000,000~~\$500,000 may be submitted in lieu of a bond.
- b) Individual utilities with previously poor performance record. Types of poor performance include a history of using inferior methods and materials, poor maintenance of utility appurtenances and failing to comply with Department directives (which have not been nullified by a court of competent jurisdiction) or conditions of other utility permits.
- c) Individual utility contractors with previously poor performance record. (See subsection (b).)
- d) Variances to this Part. (See Section 530.130, "Variances".)

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.275 Surety Bond

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- a) If required, the permittee shall furnish a surety bond on a form approved, and in an amount specified, by the Department.
- b) General
 - 1) The surety bonds required for utility work and occupancy on State highway right-of-way are intended primarily to assure the prompt and satisfactory replacement, repair, and completion of work (at no cost to the State or its contractors) on State highway facilities that may be damaged or disrupted by the utility company's operations or occupancy. These bonds are not to be considered as personal injury and property damage insurance.
 - 2) A surety bond remains in effect until released by the Department.
 - 3) The monetary value of the surety shall be based on the potential for highway facility damages which may be related to the type and volume of transmittent, the physical dimensions of the utility facilities, and the permittee's history of noncompliance.
 - 4) The Department will accept bonds from only those sureties that meet the Department's standards for acceptability as set forth in 44 Ill. Adm. Code 675.240.
 - 5) The bonding company shall commit itself to notify the Department of its intention to terminate the bond at least 30 days before termination. The permittee shall provide a substitute surety bond acceptable to the Department within 15 days after its surety gives a termination notice or shall remove its facility from, and restore, the right-of-way within that period of time.
- c) **Utility Permit Continuing Bond**
Surety shall be provided as a continuing bond to remain in full force and effect for all utility companies issued a general utility permit providing for long-term or permanent occupancy of State highway right-of-way.
- d) **Individual Utility Permit Bond**
Surety shall be provided by a contractor who constructs or maintains utility facilities, under permit, for a municipality or other public body which is not

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required to maintain a continuing bond. Individual utility permit bonds are to remain in full force and effect until the specific project is completed and the highway right-of-way is restored in accordance with Section 530.250. As a minimum, Individual Utility Permit Bonds remain in full force and effect for five years from date of permit approval by the Department.

- e) **Continuing Bond for Utility Contractors**
A contractor who has occasion to frequently request permits for utility work may provide, at its option, a continuing bond. This arrangement eliminates the need for the contractor to secure an individual utility permit bond for each project.
- f) If the surety bond expires, the permit can be revoked.

AGENCY NOTE: Forms mentioned in this Part are available from District offices as listed shown in Appendix Section 530. Illustration A or the Illinois Department of Transportation, Bureau of Operations Maintenance, 2300 South Dirksen Parkway, Room 009, Springfield, Illinois, 62764.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.290 Maintenance

- a) The Department shall be notified in writing and must give its permission before a permittee undertakes repairs of its facility in the right-of-way. Permission will be granted in the form of a permit.
- b) Utility facilities on State highway right-of-way are to be maintained, by or for the owner corporation, at the owner corporation's expense.
- c) **Emergency Maintenance Procedures**
Emergencies that require immediate attention or repair of a utility installation may preclude following normal procedures for securing a working permit, but, within 48 hours after completion of the emergency repair, the permittee must file with the respective District where the emergency work is located in writing with the Department a written description of the repairs undertaken in the right-of-way within 48 hours after the emergency repair.
- 1) Emergency maintenance in relation to utility installations on the interstate and conventional highway system will be considered as any immediate

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maintenance required to the utility installation for the safety of the traveling public or immediate maintenance required for the health and safety of the general public served by the utility.

- 2) If an emergency creates a hazard on the traveled portion of the roadway, immediate steps shall be taken by the utility company to provide all necessary protection for traffic on the highway, including, but not limited to, the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, appropriate traffic control and protection, including, but not limited to, signs and lights, shall be provided. Parking on the interstate shoulder in an emergency will only be permitted when no other means of access to the utility installation is available.
- 3) In an emergency, the utility company shall immediately notify the appropriate Regional District Engineer or authorized agent of the emergency, informing the Regional District Engineer as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the State Police, as well as the Regional District Engineer, shall be notified immediately.
- 4) In an emergency, the utility company shall complete repairs as soon as possible and with the least inconvenience to the traveling public.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.300 As-Built Plans and Records Retention

- a) If the permitted facility cannot beis not placed as shown in the application, the permittee shall obtain written approval fromsubmit a set of as-built plans to the Department's District office prior to altering the facility's alignment. The permittee shall provide a set ofOffice within 90 days after the completion of the permitted work. If as-built plans to the Department's District office within 180 days after completion of the work,deviate from the permit, such deviation shall be identified and shall be treated as a request for variance in accordance with Section 530.130. If the Department does not reject the as-built plans within 90 days after

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~~their receipt, they will be considered approved. If the Department disapproves the as-built plans, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit.~~

- b) The permittee shall maintain permanent records of abandoned/retired facilities on State right-of-way. The records shall be complete enough to enable the permittee to accurately locate the abandoned/retired facilities on the right-of-way. Removal of abandoned/retired facilities, including all appurtenances, shall be as described in Section 530.830.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.310 Obligation to Remove, Relocate, or Modify

- a) The permittee shall remove, relocate, or otherwise modify its facility, including the removal of bridge attachments, as specified by Section 9-113(f) of the Code, when required to do so in accordance with Sections 530.810, 530.820 and 530.830, at no expense to the Department, when deemed necessary by the Department for highway or safety purposes. If the Department determines that satisfactory arrangements have not been made for the removal, relocation or modification of the permittee's facilities, the Department may remove, relocate or modify the ditches, drains, track, rails, poles, wires, pipe line or other equipment and bill the permittee for all or a portion of the cost of the removal, relocation or modification. The scope of the project will be taken into consideration by the Department in determining satisfactory arrangements. The Department will determine the terms of payment of those costs, including that all costs billed by the Department shall be made payable over a period of time not exceeding 5 years from the date of billing, except that, in cases of demonstrated financial hardship by a unit of local government or other public owner, an extension may be granted. (See Section 9-113(f) of the Code.) Section 9-113 of the Code gives sole authority to the Department, and no other administrative agency or commission may review or overrule a permit-related decision or direction of the Department. The failure of a permittee to comply with the directions of the Department may cause the sanctions, set forth in Subpart H, to be imposed on it. The obligation to remove, relocate or modify facilities applies to active, inactive or abandoned/retired facilities.
- b) The Department ~~will~~may also give proper written notice that the permittee shall remove, relocate, or otherwise modify its facility.

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- 1) Proper written notice shall be accomplished when the Department has:
 - A) Provided the permittee with a copy of the Department's 5 year programs;
 - B) Provided the permittee with the annual element of the 5 year programs;
 - C) Established Coordination Councils (See Section 9-113(b) of the Code.);
 - D) Provided the permittee with a set of final engineering plans;
 - E) Provided necessary State permits (The permittee must file permit applications within 15 days after receipt of final engineering plans. Failure of the permittee to fulfill this obligation voids the necessity for proper written notice by the Department.); and
 - F) Provided sufficient right-of-way for the permittee to relocate as needed and still remain on highway right-of-way. (See Section 9-113(f) of the Code.)
- 2) The permittee shall relocate its facilities within 90 days after receipt of the written notice or:
 - A+) If, within ~~90~~60 days after receipt of ~~the~~such written notice, the permittee has not notified the Department and obtained approval concerning the permittee's satisfactory arrangements, including, but not limited to, timetables and a planned course of action for the relocation or removal of the permittee's facilities~~are not made~~, the Department may undertake the requested actions itself and may bill the permittee for the total cost; or the Department or general contractor for the project may file a complaint in circuit court for an emergency order to direct and compel the permittee to remove, relocate or modify its facilities. (See Section 9-113(f) of the Code.)~~thereof~~.
 - B) The permittee may request a waiver of the 90 day time limit for

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relocation by submitting a written waiver request to the respective Regional Engineer within 90 days after receipt of the written notice. The Regional Engineer will provide the permittee with a written decision within 10 days after receipt of the waiver request. Reasons for waiving the deadline shall be limited to acts of God, war, the scope of the project, the Department failing to follow the proper written notice procedure, and any other cause beyond reasonable control of the permittee. Waivers will not be unreasonably withheld. (See Section 9-113(f) of the Code.)

- 32) Notice shall be considered to have been received if:
- A) Either the Department receives from the U.S. Postal Service a signed return receipt or a notice that the permittee has refused to accept a notice by mail; or
 - B) The Department obtains such other reliable evidence of receipt as it may find to be appropriate. For example, the receipt of a hand-delivered notice might be evidenced by a statement by the messenger that the notice was delivered. A receipt from an express message service would also suffice.
- 43) If notice of receipt is not received within 10 days or the Department receives a notice of undeliverability, the notice shall be posted as a sign in a conspicuous place in the area of the permit. If, within 60 days after posting of such written notice as a sign, satisfactory arrangements are not made, the Department may undertake the requested actions itself and may bill the permittee for the total cost thereof.
- c) The Permittee, by use of its permit, agrees to the following:
- 1) To pay the Department's costs incurred under this Section; and
 - 2) If the full amount of the bill is not paid by the date specified on the billing statement, to pay all costs of collection, including attorneys' fees, litigation expenses, and fees (including contingency and percentage fees) paid to collection agencies; and
 - 3) That any attorney at law is authorized, on behalf of permittee, to do the

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following:

- A) Appear before any court of competent jurisdiction in Illinois, upon complaint made by the Department, and enter permittee's appearance;
- B) waive process and service;
- C) confess judgment for the full amount billed under this Section, for all attorneys' fees and costs incurred by the State of Illinois associated with ~~attempts~~ attempt(s) to collect the amount billed under this Section;
- D) accept the release and indemnification provisions stated in Section 530.225 of this Part;
- E) waive all errors and all right of appeal from ~~the judgment~~ the judgment ~~said judgment(s)~~; and
- F) provide ~~such~~ other consents or cooperation as may be helpful to complete the collection process so that the Department may be fully paid.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.320 Apportionment of Costs

There may be times when the Department will incur delay or other costs, including third party claims, because the permittee will not or cannot perform its duties under its permit and this Part. Unless the permittee shows that another allocation of the cost of undertaking the requested action is appropriate, the permittee shall bear the Department's costs of damages, including, but not limited to, and its costs of installation of the facility or facilities and all costs incurred for construction delays, including, but not limited to, traffic control, remobilization, acceleration and any necessary redesign of the plans due to the permittee's refusal and/or inability to meet the obligations of its permit. installing, maintaining, modifying, relocating, or removing the facility which is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the Department. The sanctions set forth in Subpart H may be imposed on a permittee who does not pay the costs apportioned to it.

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(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.330 Design of Facilities

Capacity for foreseeable future expansion needs of the permittee's facilities shall be provided in initial installations.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART D: SPECIFIC PERMIT CONDITIONS

Section 530.400 Underground Facilities – Power and Communication Lines

a) General

- 1) Longitudinal lines shall be located as near the right-of-way line as practicable and no more than eight feet from and parallel to the right-of-way line.
- 2) Installation shall have a minimum cover of 30 inches ~~except communication lines installed by the plowed method shall have a minimum cover of 24 inches.~~
- 3) Underground power cables must be grounded in accordance with the National Electrical Safety Code (ANSI C2-~~2007+990~~).

b) ~~Fully Access Controlled Highways~~

~~1) Longitudinal Lines A) New underground power and communications lines longitudinal to the centerline will not be permitted within the access control lines of fully access-controlled highways under the following conditions: i) When the installation of the utility would require pavement cuts. ii) When non-emergency repairs of the utility would require the use of any part of the highway. iii) When the installation of the utility would endanger or impair other utility facilities already in place. iv) When the installation of the utility would be above ground after installation. v) When the utility would interfere with or impair the present use or future expansion of the highway. B) When new underground power and communications lines are to be permitted longitudinally to the centerline of fully access-controlled State highways, the following conditions will apply: i) No above-ground appurtenances will be allowed on State highway right of way. ii) No utility~~

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~~facilities will be allowed between the edge of pavement and the back of abutment of the intersecting roadway at grade separation structures.iii) Bridge attachments may be allowed as specified in Subpart G.2.)~~Underground Crossings

Underground power and communication lines will be permitted to cross fully access-controlled highways under the following conditions:

- 1A) The crossing provides a transmission or distribution service to a general area or an expanding area. No individual service crossings will be permitted to cross a fully access-controlled highway except in cases involving isolated locations such as landlocked areas.
- 2B) The design, materials and construction methods shall be those that can be expected to provide maximum maintenance-free service life.
- 3C) Encasement shall be provided between jacking or bore pits, if the crossing is installed by boring or jacking.
- 4D) Encasement may be eliminated under the following conditions:
 - A)† The crossing is installed by the use of "moles", "whip augers" or other approved methods which compress the earth to make the opening for cable installation.
 - B) The crossing is installed by "directional boring" or other Department-approved trenchless technologies, such as jack and bore.
 - C)‡ The installation is by the open trench method. This method is only permitted prior to roadway construction.
- 5E) Above-ground mounted appurtenances to electric power or communication lines within the access-control lines of fully access-controlled highways will normally not be permitted except in cases of extreme need. Where installations are approved, they shall be located outside the clear zone and within one foot of the right-of-way line or as near as practicable.

c) Conventional Highways

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- 1) Longitudinal Lines
Underground power and communication lines may be permitted longitudinal to the centerline of conventional State highways under the following conditions:
 - A) Cable may be installed by trenching or plowing with consideration given to boring to minimizing the damages when crossing improved entrances and side roads.
 - B) ~~Aboveground~~~~Above-ground~~ appurtenances constructed as component parts of underground communication or electric power lines shall not be sight obstructions and shall be located within one foot of the right-of-way line or as near as practicable.
 - C) Manholes, handholes and all other underground appurtenances shall be installed at elevations that render the uppermost surfaces flush with the adjacent undisturbed surfaces.
- 2) Underground Crossings
Underground power and communication lines will be permitted to cross conventional highways under the following conditions:
 - A) The design materials and construction methods shall be those that can be expected to provide maximum maintenance-free service life.
 - B) Encasement shall be provided between jacking or bore pits, if the crossing is installed by boring or jacking.
 - C) Encasement may be eliminated under the following conditions:
 - i) The crossing is installed by the use of "moles," "whip augers" or other approved methods which compress the earth to make the opening for cable installation.
 - ii) The crossing is installed by "directional boring" or other approved trenchless technologies, such as jack and bore.
 - iii) The installation is by the open trench method. This method

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is only permitted prior to roadway construction.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.410 Underground Facilities – Gas Transmission Lines

a) General

- 1) Gas pipelines shall be constructed, maintained, and operated in a Department approved, as defined in Section 530.30, manner and in conformance with 49 CFR 191 and 192, ~~"Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards"~~ incorporated by reference at Section 530.20.
- 2) Crossing installations by open trench will be permitted only prior to roadway construction with vented encasement provided between ultimate ditch lines or toes of slopes of the highway as a minimum or as directed by the engineer. ~~Aboveground~~ ~~No above-ground~~ vent pipes shall be located at the right-of-way line or other Department-approved location in the area established as clear zone for that particular section of highway.
- 3) Gas pipeline crossings shall have a minimum cover of 30 inches at all locations on right-of-way, including below design ditch elevation even if the ditch is higher than design elevation.

b) Fully Access-controlled Highways

- 1) Longitudinal Gas Pipelines:
New longitudinal gas pipelines will not be permitted within the access-control lines of fully access-controlled highways. Existing longitudinal gas pipelines may be permitted to remain if they can be serviced without access from the through-travel lanes, shoulders, or ramps of the fully access-controlled highway.
- 2) Gas Pipeline Crossings:
Gas transmission and distribution lines may be permitted to cross fully access-controlled highways under the following conditions:
 - A) The crossing provides a transmission or distribution service to a

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general area or an expanding area. No individual service lines will be permitted to cross a fully access-controlled highway except in cases of extreme hardship involving critical needs and isolated locations.

- B) The design, materials and construction methods shall be those that can be expected to provide maximum maintenance-free service life.
- C) Crossings under completed highway projects shall be installed by jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway as a minimum or as directed by the engineer. No ~~aboveground~~~~above-ground~~ vent pipes shall be located in the area established as clear zone for that particular section of highway. ~~The crossing may be installed using tunneling with vented encasement but only when the installation is not possible by other means. When tunneling, The~~ the venting of the encasement shall extend to within one foot of the right-of-way line. Crossings may also be installed by the use of "moles," "whip augers" or other approved methods ~~that~~~~which~~ compress the earth to make the opening for pipe; or by directional boring; or by other Department-approved trenchless technology, such as jack and bore.
- D) Encasement may be eliminated under the following conditions:
- i) steel pipe conforming to the American Petroleum Institute's publication API RP 1102 for uncased crossing under railroads and highways is used; extra heavy pipe is used; and
 - ii) cathodic protection of the pipe is provided.
- E) If encasement is eliminated, maintenance of damaged or decayed pipe may not disrupt the right-of-way. (See Section 530.30, ~~definition of "Disrupt the Right-of-Way,~~~~right-of-way"~~)
- F) Locations shall be avoided where rock excavation or deep cuts would make crossings with proper cover impractical.

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- G) The locations of the crossing pipe shall be marked at the right-of-way line with markers that identify the utility and provide emergency telephone numbers. Location information shall be kept legible and current. In urban areas, the markers for transmission and distribution lines may be eliminated, as provided in 49 CFR 192.707.
- c) Conventional Highways
- 1) Longitudinal Gas Pipelines:
- A) Gas pipelines for transmission, distribution, and service may be permitted longitudinal to the centerline of conventional State highways if the materials, construction methods, and other elements are in conformance with the provisions of this Part.
- B) Longitudinal gas transmission lines shall be located as near the right-of-way line as practicable and not more than eight feet from and parallel to the right-of-way line.
- 2) Gas Pipeline Crossings:
Gas pipelines for transmission, distribution, and service may be permitted to cross conventional State highways under the following conditions:
- A) Crossings of over 60 psig shall be installed by jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway as a minimum or as directed by the engineer. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of highway. ~~The crossing may be installed using tunneling with vented encasement, but only when the installation is not possible by other means. When tunneling, the Venting~~venting of the encasement shall extend within one foot of the right-of-way line. Crossings may also be installed by the use of "moles," "whip augers" or other approved methods which compress the earth to make the opening for the pipe; or by directional boring; or by other Department-approved trenchless technology, such as jack and bore.

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- B) Encasement will not be required for crossings of 60 psig or less.
- C) Encasement may be eliminated under the following conditions:
- i) steel pipe conforming to the American Petroleum Institute's publication API RP 1102 for uncased crossing under railroads and highways is used; extra heavy pipe is used; and
 - ii) cathodic protection of the pipe is provided.
- D) If encasement is eliminated, maintenance of damaged or decayed pipe may not disrupt the right-of-way. (See Section 530.30, definition of "Disrupt the Right-of-Way".)
- E) The locations of the crossing pipe for transmission and distribution lines shall be marked at the right-of-way line with markers that identify the utility and provide emergency telephone numbers. This information shall be kept legible and current. In urban areas, the markers for transmission and distribution lines may be eliminated as provided in current Federal regulations. (See 49 CFR 192.707. ~~(1989)~~)
- F) In built-up or expanding areas, frequent service crossings are discouraged in favor of establishing distribution on both sides of the highway. The Department reserves the right to reject permits involving frequent service crossings.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.420 Underground Facilities – Petroleum Products Pipelines

- a) General
- 1) Petroleum products pipelines are those carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry. Petroleum products pipelines are, with few exceptions, transmission lines delivering products to processing or distribution facilities. Petroleum products pipelines installed on State

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highway right-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping which is incorporated by reference in Section 530.20(a)(7). (~~Liquid Petroleum Transportation Piping Systems ANSI-B-31.4~~)

- 2) Crossing installation by open trench will be permitted only prior to roadway construction with vented encasement provided between ultimate ditch lines or toes of slopes of the highway as a minimum or as directed by the engineer. No ~~aboveground~~~~above-ground~~ vent pipes shall be located in the area established as clear zone for that particular section of highway.
 - 3) Encasement may be eliminated under the following conditions:
 - A) steel pipe conforming to the American Petroleum Institute's publication API RP 1102 for uncased crossing under railroads and highways is used~~extra heavy pipe is used~~; and
 - B) cathodic protection of the pipe is provided.
 - 4) If encasement is eliminated, maintenance of damaged or decayed pipe may not disrupt the right-of-way. (See Section 530.30, "definition of Disrupt the Right-of-Way".)
 - 5) The location of petroleum products pipeline crossings shall be marked at the right-of-way lines with markers that identify the utility and provide emergency telephone numbers in accordance with current Federal regulations. (See 49 CFR 192.707, ~~(1989)~~)
- b) Fully Access-controlled Highways
- 1) Longitudinal Petroleum Products Pipelines
New longitudinal petroleum products pipelines will not be permitted within the access-control lines of fully access-controlled State highways. Existing longitudinal installations shall be relocated if they cannot be serviced except from through travel lanes, shoulders, or ramps of the highway. Longitudinal petroleum products pipelines may be permitted outside the access-control lines where frontage roads or other corridors provide access for servicing the facilities.

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- 2) Petroleum Products Pipeline Crossings
Petroleum products pipelines may be permitted to cross fully access-controlled highways under the following conditions:
 - A) The design, construction methods and materials shall be those that can be expected to provide maximum maintenance-free service life.
 - B) Crossing of completed highway projects shall be installed by jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway as a minimum or as directed by the engineer. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of highway. ~~The crossing may be installed using tunneling with vented encasement, but only when the installation is not possible by other means. When tunneling, The~~the venting of the encasement shall extend to within one foot of the right-of-way line.
 - C) Locations shall be avoided where rock excavation or deep cuts would make crossings with proper cover impractical.
- c) Conventional Highways
 - 1) Longitudinal Petroleum Products Pipelines
 - A) Longitudinal petroleum products pipelines may be permitted on conventional State highways if the materials, construction methods and other elements are in conformance with the provisions of this Part.
 - B) Longitudinal petroleum products pipelines shall be located as near the right-of-way lines as practicable and not more than eight feet from and parallel to the right-of-way line.
 - 2) Petroleum Products Pipeline Crossings
Petroleum products pipeline crossings may be permitted to cross conventional highways under the following conditions:
 - A) The materials, construction methods and other elements are in

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conformance with this Part.

- B) Crossings shall be installed by jacking or boring under completed highway projects with vented encasement provided between ditch lines or toes of slopes of the highway as a minimum or as directed by the engineer. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of highway. ~~The crossing may be installed using tunneling with vented encasement, but only when the installation is not possible by other means. When tunneling, The~~the venting of the encasement shall be ~~at within one foot of~~ the right-of-way line.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.430 Underground Facilities – Waterlines

a) General

- 1) Waterlines generally are those pipelines carrying potable water. Permit applications for waterlines shall indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied. Waterlines shall be installed to meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois" which is incorporated by reference in Section 530.20.
- 2) Water main cover shall be sufficient to provide freeze protection and shall be maintained at a minimum of three feet.
- 3) Encasement may be omitted if pipe is installed prior to highway construction and continuous or restrained joint carrier pipe is used. Bell and spigot type shall be encased regardless of installation method.
- 4) Longitudinal lines shall be located as near the right-of-way line as practicable and no more than eight feet from and parallel to the right-of-way line.
- 5) Ground-mounted appurtenances to waterlines, except for fire hydrants, shall be located within one foot of the right-of-way line or as near as

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practicable. Meters, valves, shut-offs and all other appurtenances, including, but not limited to, meter pits and covers, and valve pits and covers, shall be installed at elevations that render the uppermost surfaces flush with the adjacent undisturbed surfaces.

b) Fully Access-controlled Highways

1) Longitudinal Water Mains

New longitudinal water mains will not be permitted between the access-control lines of fully access-controlled highways. Existing longitudinal installations shall be relocated if they cannot be serviced except from through-travel lanes, shoulders, or ramps of the highway. Longitudinal water mains may be permitted outside the access-control lines of fully access-controlled highways if frontage roads or other corridors provide access for servicing the lines.

2) Water Main Crossings

Water main crossings of fully access-controlled highways may be permitted under the following conditions.

A) The design, construction methods and materials shall be those that can be expected to provide maximum maintenance-free service.

B) Crossing of completed highway projects shall be installed by a trenchless installation method as defined in Section 530.30 and as described in Section 530.500(b) ~~jaacking or boring with encasement provided between jaacking or bore pits.~~

C) Crossing shall provide water service to a general or expanding area.

D) Individual service crossing under fully access-controlled highways will not be permitted except involving isolated locations such as landlocked areas.

c) Conventional Highways

1) Longitudinal Water Mains

Longitudinal water mains may be permitted on the right-of-way of

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conventional highways if they conform to the general provisions of this Section.

- 2) Water Main and Service Crossings
Water main and service crossings of conventional State highways may be permitted under the following conditions:
 - A) The crossings shall be installed by a trenchless installation method as defined in Section 530.30 and as described in Section 530.500(b) ~~jaacking or boring~~ under completed highway projects.
 - B) Encasement shall be furnished between bore pits unless continuous pipe or Department approved jointed pipe is used under the roadway structure (see Section 530.30, definition of "Department-Approved").

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.440 Underground Facilities – Sewer Lines and Drainage Lines

- a) General
 - 1) Sanitary sewers and storm sewers other than those installed only for highway drainage shall be regulated by this Part. Drainage piping owned and operated by an organized drainage district, sanitary district, municipality, or individual is regulated by this Part.
 - 2) Permit applications for sewerline installations shall indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control, have been satisfied. Sewer lines shall be installed to meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois," which is incorporated by reference in Section 530.20.
 - 3) Sewer and drain lines shall have minimum cover of 30 inches with cover sufficient for freeze protection.
 - 4) Longitudinal lines shall be located as near the right-of-way line as practicable and no more than eight feet from and parallel to the right-of-

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way line.

5) Unless otherwise approved, manholes and all other appurtenances shall be installed at elevations that render the uppermost surfaces flush with the adjacent undisturbed surfaces.

65) Storm sewers, sanitary sewers, or drainage lines may be permitted to cross highways under the following conditions:

A) The design, construction methods and materials shall be those that can be expected to provide maximum maintenance-free service life.

B) Casing may be omitted for crossings installed by open trench method prior to highway construction if the sewer system is unpressurized or if Department approved continuous pipe or Department approved jointed pipe is used (~~see~~ See Section 530.30, definition of "Department-Approved"). ~~The~~ Such uncased installation shall preclude future repair or maintenance under the roadway structure.

C) Crossings of completed highway projects shall be installed by jacking or boring with encasement provided between bore or jacking pits.

b) Fully Access-controlled Highways

New longitudinal storm sewers, sanitary sewers, or drainage lines that are not a part of the highway facilities will not be permitted between the access-control lines of fully access-controlled highways. Existing longitudinal sewage or drainage systems may be permitted to remain if they can be serviced without access from the through-travel lanes, shoulders, or ramps of the highway.

c) Conventional Highways

Longitudinal sewer and drain lines may be permitted on conventional State highways if they conform to the general provisions of this Section.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.450 Aboveground~~Above-Ground~~ Facilities – Power and Communication Lines

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- a) **General**
An application for a permit for a new power or communication installation system shall include evidence, if required, that a "Certificate of Public Convenience and Necessity" has been issued by the Illinois Commerce Commission. Electric power or communications installations on State highway right-of-way shall be constructed, operated, and maintained in conformity with the provisions of the National Electrical Safety Code and Illinois Commerce Commission's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305), except for certain vertical clearance requirements as **hereinafter** noted **in subsections (a)(1) and (a)(2)**.
- 1) **Ground Mounted Appurtenances**
Ground mounted appurtenances shall be provided with a vegetation-free area extending one foot beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material. With the approval of the **Regional District** Engineer, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground mounted appurtenances shall be painted an inconspicuous color.
- 2) **Guy Wires and Brace Posts**
~~A) Guys and braces will not be allowed on the right of way. B) When a variance is~~ allowed, in accordance with Section 530.130, guy wires shall be equipped with guy guards for maximum visibility.
- b) **Fully Access-controlled Highways**
- 1) **Longitudinal Lines**
- A) Longitudinal pole lines will not be permitted within the access-control lines of fully access-controlled highways except existing installations that can be serviced without access from the through traffic roadway or ramps.
- B) Longitudinal pole lines may be permitted outside the access-control lines of fully access-controlled highways where frontage roads or other corridors provide access for servicing the installation and overhanging of the access-control line is minimal.

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- 2) Overhead Crossings
- A) Overhead crossings of power and communication lines over fully access-controlled highways shall provide a minimal vertical clearance over the roadway of 20 feet with additional clearances as required by Illinois Commerce Commission's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305) for higher voltage lines. Where practicable, the crossing shall span the entire right-of-way with no poles, guys, or appurtenances within the access-control lines.
 - B) Supporting poles shall be in compliance with the latest AASHTO "A Policy on the Accommodation of Utilities Within Freeway Right-of-Way," incorporated by reference in Section 530.20, and the minimum offset allowable to the tower or pole shall be in accordance with the clear zone as provided in the latest AASHTO Roadside Design Guide, incorporated by reference in Section 530.20.
 - C) Overhead crossings of interchanges that would require poles, towers, guy wires or brace posts within the interchange will normally not be permitted except in cases of extreme need. The installation shall be in compliance with the latest AASHTO "A Policy on the Accommodation of Utilities Within Freeway Right-of-Way," incorporated by reference in Section 530.20, and the minimum offset allowable to the tower or pole shall be in accordance with the clear zone as provided in the latest AASHTO Roadside Design Guide, incorporated by reference in Section 530.20.
 - D) Overhead crossings shall be transmission or distribution lines serving a general area or to serve a developing area. No individual service crossings will be permitted to cross a fully access-controlled highway except involving isolated locations such as landlocked areas.
- c) Conventional Highways

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- 1) Longitudinal Lines
 - A) Overhead power and communication lines longitudinal to the centerline of conventional State highways shall be of single pole construction located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit. A variance may be granted, in accordance with Section 530.130, when no other location is feasible or when the clear zone extends to the right-of-way line.
 - i) In urban areas, where pavement is curbed, poles are to be as remote as practicable from the curb with a minimum distance of 1.5 feet behind the face of the curb. Poles will not be allowed within clear zones in curbed areas with demonstrated or anticipated lane departure occurrences.
 - ii) In urban areas, where pavement is uncurbed, poles shall be as remote from the pavement as practicable with a minimum distance of four feet outside the outer shoulder line of the roadway and not within the clear zone.
 - B) Joint use of poles will be required where practical. All occupants of a joint use pole shall obtain separate permits before installing any facilities. The lowest facility on a joint use pole shall maintain an 18' clearance above the ground.
 - C) No utility poles will be permitted in the ditch line of any State highway.
 - D) Ground-mounted appurtenances to electric power or communication lines shall be located within one foot of the right-of-way line or as near as practicable.
- 2) Overhead Crossings
 - A) Overhead power and communication lines crossing conventional highways shall have a minimum vertical line clearance over the roadway of 18 feet with additional clearances as required by Illinois Commerce Commission's rules entitled, "Construction of

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Electric Power and Communication Lines" (83 Ill. Adm. Code 305) for higher voltage lines.

- B) Poles shall be located within one foot of the right-of-way of the highway and outside of the clear zone.
- C) Overhead crossings at major interchanges will be discouraged.
- D) In expanding areas, frequent service crossings will be discouraged in favor of requiring distribution systems on both sides of the highway.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.460 ~~Aboveground~~Above-Ground Facilities – Light Poles and Lighting Power Lines

- a) General
 - 1) This Section applies to poles used solely for lighting. Poles used for both lighting and transmission/distribution shall meet the requirements of Section 530.450.
 - 2) Ground mounted appurtenances shall be provided with a vegetation-free area extending one foot beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material. With the approval of the Regional District Engineer, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground mounted appurtenances shall be painted an inconspicuous color.
 - 3) Guy Wires and Brace Posts
 - ~~A)Guys and braces will not be allowed in the clear zone on the right of-way.B)When guy wires are~~ allowed, guy wires shall be equipped with guy guards for maximum visibility.
 - 4) Joint Use of Poles
 - A) Poles supporting both lights and lighting power lines shall meet the

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criteria for light poles except joint use of poles will not be permitted in the clear zone.

B) Joint use of poles will be required where practical.

b) Light Poles

- 1) Light poles shall be of single pole construction located outside the clear zone and at or as near as practicable to the right-of-way line and, where possible, in protected areas.
 - A) In urban areas where pavement is curbed, light poles are to be as remote as practicable from the curb with a minimum distance of 1.5 feet behind the face of the curb. Poles will not be allowed within the clear zone in curbed areas with demonstrated or anticipated lane departure occurrences.
 - B) In urban areas, where pavement is uncurbed, light poles shall be as remote from the pavement as practicable with a minimum distance of four feet outside the outer shoulder line of the roadway.
- 2) No light poles will be permitted in the ditch line of any State highway.
- 3) A light pole located in the clear zone will be breakaway unless:
 - A) It cannot be struck by errant vehicles because it is behind or on a barrier, or is protected by crash cushions which are necessary for other roadway design reasons; or
 - B) The amount of pedestrian traffic on nearby pedestrian facilities is such that a breakaway support would present a greater potential hazard to the pedestrian traffic than a non-breakaway support would present to the vehicular traffic. Examples of such locations include sports stadiums and associated parking areas, tourist attractions, school zones, central business districts, and local residential neighborhoods where the speed limit is 30 miles per hour or less.
- 4) Light poles located outside the clear zone of roadways, where no

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pedestrian facilities exist, shall be breakaway where there is a possibility of being struck by errant vehicles.

- c) Lighting Power Lines
Power lines serving only to provide power to lights must meet the same criteria as power and communication lines. (See Section 530.450)

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.480 Track and Rail Facilities

An applicant may be granted a permit for the placement of track and rails on a State highway right-of-way based upon the following classifications:

- a) An applicant ~~that~~^{which} is a registered rail carrier, as prescribed by 625 ILCS 5/18c-7201, in accordance with the rules and procedure of the Illinois Commerce Commission shall, in addition to the permission required ~~under~~^{by} this Part, ~~obtain~~^{have} the permission ~~from~~^{of} the ~~ICCLCC~~ to place track and rail across a highway at grade.
- b) An applicant which is a registered rail carrier shall secure the permission required by this Part to place track and rail in any manner on highway right-of-way except as provided in Section 530.480(a).
- c) An applicant which is not a registered rail carrier shall secure the permission required by this Part to place track and rail on highway right-of-way in any manner.
- d) A registered rail carrier which has track and rail facilities located at grade or otherwise on highway right-of-way pursuant to permit issued by the Department, agreement with the Department or order of the ~~ICCLCC~~ issued prior to the adoption of this Part need not comply with the provisions of Section 530.40(i).

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART E: CONSTRUCTION METHODS AND MAINTENANCE WORK ON UTILITIES**Section 530.500 Construction Methods for Utility Installations**

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- a) Utility facilities shall be installed in a Department approved manner, as defined in Section 530.30. Compliance with this Section does not necessarily constitute compliance with relevant rules of other State agencies, including, but not limited to, such as the ICC's ILCC rules entitled "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305) and applicable Environmental Protection Agency regulations.
- b) Trenchless Installation~~Boring or Jacking~~
- 1) Trenchless installations~~Boring or jacking~~ under State highways shall be accomplished from pits located a minimum of 30 feet from the edge of pavement on fully access-controlled highways and at a distance of ten feet plus the depth of the pit without shoring on conventional highways. If shoring is used, the pits shall be located a minimum of ten feet from the edge of pavement on conventional highways. The shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the trenchless installation~~boring or jacking operation~~.
 - 2) Wet boring or jetting will not be permitted under the roadway structure of State highways.
 - 3) Borings ~~over six inches in diameter~~ shall be accomplished by a Department-approved method~~with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than one inch~~. Borings ~~six inches and under may be accomplished by either jacking, guided whip auger, or auger with following pipe method~~. Pits for boring or jacking shall be excavated ~~no more than 48 hours in advance of boring or jacking operations and backfilled within 48 hours after boring or jacking operations are completed~~. While pits are open, they shall be clearly marked and ~~protected by barricades~~.
 - 4) Pits for trenchless installations shall be excavated no more than 48 hours in advance of the installations and backfilled within 48 hours after the installations are completed. While pits are open, they shall be clearly marked with construction safety tape and protected by barricades.
- c) Trenching

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- 1) The length of open trench shall be kept to the practicable minimum consistent with requirements for pipeline testing.
- 2) Open trench and windrowed excavated material shall be protected as required by Section 530.240. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection.
- 3) Excavated material will not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
- 4) Any utility located within the drip line of any tree designated by the Department to be spared shall be bored under the root system.

d) Pavement Cuts
Pavement cuts for utility installation or repair will not be permitted on any State highway open for traffic unless the permittee can demonstrate, to the satisfaction of the Department, that no other method of accessing the facility is feasible. If a variance is permitted, in accordance with Section 530.130, the following requirements shall apply:

- 1) All saw cuts shall be full depth.
- 2) Restoration of the pavement shall be completed immediately and shall be done in accordance with Section 530.250.
- 3) Unless otherwise directed by the Department, temporary repair of the pavement using bituminous mixture will be allowed.
- 4) Any failure of either the temporary repair of the pavement or the restoration of the pavement shall be immediately corrected.

ed) Backfilling

- 1) All trenches and excavations under pavements shall be backfilled with a Department-approved, controlled low-strength material. The material and

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~~method of installation shall be in conformance with applicable portions of the Department's Standard Specifications for Road and Bridge Construction, Article 593 (January 1, 2007). granular material and compacted in a Department approved manner as defined in Section 530.30.~~

- 2) All other excavations shall be refilled with Department approved materials and construction methods, including compaction as defined in Section 530.30. When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.

e) Pavement Cuts

~~Pavement cuts for utility installation or repair will not be permitted on any State highway open for traffic. If a variance is permitted in accordance with Section 530.130, the following requirements shall apply:~~

- 1) ~~All saw cuts will be full depth.~~
- 2) ~~Restoration of pavement shall be completed as quickly as feasible and shall be done in accordance with Section 530.250.~~
- 3) ~~Unless otherwise directed, temporary repair with bituminous mixture shall be allowed.~~
- 4) ~~Any failure of either the temporary repair or the restored pavement shall be immediately corrected.~~

f) Material and Equipment Storage on Right-of-Way

- 1) During working hours, all vehicles and/or non-operating equipment, parked two hours or less, shall be parked at least 8' from the open traffic lane. For other periods of time, during working hours and all nonworking hours, all vehicles and equipment shall be parked or stored at, or as near as possible to, the right-of-way line. Any vehicle or piece of equipment constituting a hazard, in the sole judgment of the Department, must be relocated or protected in a Department-approved manner. Protection may consist of using highway cones, type 2 barricades, or safety tape, for example.

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2) All pipe, conduit, wire, poles, cross arms or other materials distributed along the highway prior to installation shall be placed as remotely as practicable from the edge of pavement in a manner to minimize its being a hazard to errant vehicles or an obstacle to highway maintenance and not in the clear zone. If material is to be stored on highway right-of-way for more than two weeks prior to installation, approval must be obtained from the Department as defined in Section 530.30.

g) Operational Restrictions

- 1) Utility construction or maintenance operations on State highway right-of-way may be required to be discontinued during periods of inclement weather when such operations would create extraordinary hazards to highway traffic (e.g., the use of steel plates may be restricted in winter).
- 2) Such operations may also be required to be discontinued or restricted when soil conditions are such that the utility work would result in extensive damage to the highway right-of-way.
- 3) These restrictions will be waived when emergency work is required to restore vital utility services.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.530 Track and Rail Inspection and Maintenance

- a) A permittee, other than a registered rail carrier classified in accordance with Section 530.480(a), shall, in addition to special permit conditions, undertake the following inspection and maintenance obligations for at-grade crossings, overpass or underpass structures, and other facilities.
 - 1) Inspect its at-grade, overpass or underpass facilities at least once a year, unless otherwise specified by its permit or required by federal and/or State statute.
 - 2) Maintain its at-grade crossings, overpass or underpass structures, and track and rail facilities to meet the following standards:
 - A) The rails on at-grade crossings shall be flush with the highway

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surface. Crossing materials shall not be loose or unstable. The highway surface shall not be rough (i.e., deviations in surface plane shall not exceed $\frac{3}{4}$ " in any one yard square area).

- B) Warning and protection devices shall be fully functional.
 - C) Each overpass must, in the sole judgment of the Department, be able to support the loads for which it is designed and used. The Department will base its judgment on Department-conducted inspections and calculations, and accepted engineering methods and practices. ~~Portions~~ Furthermore, ~~portions~~ of an overpass structure or other materials must ~~shall not be allowed to~~ fall onto the highway below.
 - D) Underpasses must, in the sole judgment of the Department, be able to support the highway and its users above. The Department will base its judgment on Department-conducted inspections and calculations, and accepted engineering methods and practices.
- 3) Submit condition/inspection reports.
- A) At-grade crossing inspection reports shall be in a format that includes all of the information and reporting required by 49 CFR 234.
 - BA) Overpass or underpass structure inspection ~~Said~~ reports shall have a format ~~that~~ which meets the information requirements of the Department and the National Bridge Inspection Standards, incorporated by reference in Section 530.20.
 - CB) The reports shall be submitted to the ~~appropriate Department's~~ District office responsible for issuing ~~Office issuing~~ the permit within 25 days after the inspection of the facility.
 - CE) If an imminently dangerous condition is found at an at-grade crossing or overpass or underpass structure, a track and rail facility, that condition shall be immediately reported to the Department.
- 4) Take all necessary steps to keep the highway open and safe for motorists.

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- b) A permittee classified in accordance with Section 530.480(a) shall undertake the inspection and maintenance obligations required by the statutes governing, regulations adopted and orders issued by, the ~~ICCLCC~~.
- c) The Department may make verification inspections of track and rail facilities to ascertain whether they are being properly maintained and whether condition reports of those facilities are accurate. Deficiencies shall be corrected within 30 days unless otherwise specified.
- d) The inspection and maintenance required by this Part shall not apply to registered rail carriers which have track and rail facilities located at grade or otherwise on highway right-of-way pursuant to permit issued by the Department, agreement with the Department or order of the ~~ICCLCC~~ prior to the adoption of this Part.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART F: VEGETATION CONTROL

Section 530.600 Tree Trimming

- a) The Department's policies for the preservation and conservation of roadside trees, shrubs, and turf are based on the inherent value of these environmental features to the public well-being and enjoyment.
- b) Tree trimming for line clearance shall not be considered a normal maintenance operation and each tree trimming project shall require the application for and the issuance of a separate working permit.
- c) Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workmen with supervision who are experienced in accepted tree pruning practices.
- d) Poor pruning practices resulting in damaged or misshapened trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages.
- e) The Department will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International

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Society of Arboriculture, incorporated by reference in Section 530.20, will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees.

- f) The Department may require the removal of trees if trimming or radical pruning would leave them in an unacceptable condition. If removal is required, the permittee shall also remove the remaining stump to a point 6" below natural ground level.
- g) The Department may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.
- h) Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART G: UTILITY ATTACHMENTS TO BRIDGES OR TRAFFIC STRUCTURES

Section 530.700 General

- a) It shall be the general policy of the Department to grant approval for accommodation of utilities on bridges only when engineering and economic study substantiates that all other means of accommodating the utility are not practical. Other means shall include, but not be limited to, underground, under stream, independent poles, cable supports and tower supports, all of which are completely separated from the bridge. The utility company shall include supporting data in ~~its~~their request that indicates the impracticality of alternate routing.
- b) This Section covers the requirements, limitations, procedures, and assessment of charges for the permitted attachment of utility facilities to bridges or traffic structures on or over State highways that are under the jurisdiction of the Department of Transportation.
- c) The provisions of this Section are applicable to both existing and proposed bridges for the attachment of a new utility, the expanding of an existing utility attachment, or the voiding of an attachment permit.

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- d) Utility facilities attached to highway structures constitute varying degrees of hazards to the highway user and to the structure itself. Utility facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present the higher degrees of risk and such installations will normally not be permitted. Approval or disapproval of an application for utility attachment to a highway structure will be based on the following considerations:
- 1) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to the highway user.
 - 2) The type, length, value, and relative importance of the highway structure in the transportation system.
 - 3) The alternative routings available to the utility and their comparative practicality.
 - 4) The proposed method of attachment.
 - 5) The degree of interference with bridge inspection, maintenance and painting.
 - 6) The effect on the visual quality of the structure.
 - 7) The public benefit expected from the utility service as compared to the risk involved.
- e) When the Department requires the removal or adjustment of any existing utility attachment due to the renovation or removal of an existing bridge, the existing permit will be automatically voided, and if a new permit is applied for and approved, the utility owner will be assessed in accordance with this Part.
- f) The issuance of a Bridge Attachment Permit will acknowledge receipt of the assessment charge and will give the necessary permission to attach, operate, and maintain the facility. In the case of a new structure, the permit will serve as an agreement during the period of construction and as a permit to attach, operate, and maintain the facility upon completion of the construction.
- g) The utility owner shall provide approved cut-off facilities at each end of the

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highway structure in order that service through the facilities attached to the structure can be cut off in case of accident or other occurrence requiring such interruption.

- h) Attachment of additional or larger facilities to a highway structure will require a new permit rendering the existing permit null and void. Moreover, the permittee will be assessed charges based upon its total facility, including all additions and enlargements. The Department will not prorate charges.
- i) If, in accordance with Section 530.830, the permittee terminates use of its facilities attached to a bridge or traffic structure, the Department may require that all utility appurtenances be removed, at the permittee's expense, as deemed necessary for highway or safety purposes. Removal shall include all clamps and all other appurtenances. The bridge or traffic structure, where appurtenances had been located, shall be painted and restored to its original condition as part of removal.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.710 Methods of Attachment

- a) Prohibited Attachment
No utility attachment to a bridge or traffic structure will be considered that proposes any of the following practices:
 - 1) Burying conduits or cables in bridge slabs, ~~or~~ sidewalks or concrete parapets.
 - 2) Drilling holes outside the middle third of the web of load carrying steel structural elements.
 - 3) Welding on structural steel elements of the structure.
 - 4) Drilling into prestressed or post-tensioned concrete supporting beams.
 - 5) Casting inserts into the bottom of prestressed concrete members.
 - 6) Attaching in a manner that will reduce critical clearances.
 - 7) Attaching outside the fascia of the bridge or structure.

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- 8) Gas pipelines over four inches in diameter or having internal pressure in excess of 75 psig.
- 9) More than one gas pipeline for each structure.
- 10) Pipelines carrying liquids or gases of an extraordinarily hazardous nature shall not be attached to highway structures.

b) Acceptable Attachment Practices

When and where the attachment of a utility to a highway bridge or structure is given favorable consideration, the following general practices shall be followed:

- 1) The attachment shall be located below the floor of the structure between beams or girders and above the lowest structural member on existing structures. Conduits may be designed into a new structure for approved attachments.
- 2) Supports and hangers shall be designed to ~~clamp or~~ bolt to steel structural elements.
- 3) Supports and hangers shall be designed to ~~clamp or~~ bolt to prestressed or post-tensioned concrete structural elements without drilling.
- 4) Utility facilities may be hung from inserts drilled on existing bridges or cast on new construction into non-critical concrete areas such as the ~~deck floor~~ slab. Inserts on new construction will be furnished and installed by the Department and shown in detail on construction plans.
- 5) The petitioner shall submit plans and specifications showing the size, weight per foot, and proposed method of attachment of the utility elements and stating the type of commodity to be transmitted, the proposed pressure or voltage, and giving the proposed location of cutoffs adjacent to the structure.
- 6) A permit for bridge attachment will provide conduit or pipe capacity for any anticipated expansion. ~~The~~In the interest of simplification, the assessment charge shall be calculated assuming that all conduits of the proposed system are filled.

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- 7) All work of attachment and maintenance of the utility facilities shall be accomplished by the utility. In the case of a new bridge or traffic structure, the contract special provisions will require the State's contractor to cooperate with the utility company with the understanding that the utility company will furnish and install the necessary conduits or pipes and appurtenances.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART H: APPLICATION DENIAL, REVOCATION AND SANCTIONS

Section 530.830 Non-Use

a) The permittee shall notify the Department within 15 days of the termination of its use of a facility. If requested to do so by the Department, the permittee shall remove its facilities and restore the right-of-way in accordance with Section 530.250. Such removals are not expected to be normal requirements, and will be requested only when the abandoned or non-used utility facilities will interfere with anticipated construction or other anticipated use of the right-of-way in the area, or when existence of the abandoned or non-used utility facilities could be detrimental to the highway. ~~The Department may require the permittee to convey ownership, control, and responsibility of the abandoned facility to the State of Illinois in exchange for being allowed to leave the facility in or on the right-of-way.~~

- b) ~~If the permittee terminates its use of facilities attached to a bridge or traffic structure, the Department may require all utility appurtenances be removed at the permittee's expense. The removal shall include all clamps or other appurtenances. The bridge or traffic structure where appurtenances were located shall be painted and restored to its original condition as part of the removal.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 530.840 Change of Ownership or Owner's Identity or Legal Status

- a) The permittee shall notify the Department's District ~~office~~Office that issued the permit within ten days prior to the transfer of a permitted facility to another party. Notification shall include the name of a contact person, as required by Section 9-113 of the Code.

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- b) The new owner shall request that the permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the State's right-of-way.
- c) If a permittee is sold (e.g., a corporation is sold), no change in the permit is required. The new owner of the permittee shall have all the obligations and privileges enjoyed by the former owner.
- d) If the legal status of the permittee changes (e.g., corporate merger or the incorporation of a partnership), the permittee is still bound by the permit, but must notify the Department of the change in the legal status.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART I: ADMINISTRATIVE REMEDIES

Section 530.900 Administrative Review

- a) If the applicant and the District cannot agree either on whether the permit should be issued or on what conditions would be appropriate, the applicant may, within 15 days after the issuance of written notice of the District's position, appeal the District's determination to the Chief of the Department's Central Bureau of [OperationsMaintenance](#).
- b) This appeal shall be in writing, shall clearly State the areas of disagreement and the basis for the applicant's position, and shall be directed to:

Illinois Department of Transportation
Division of Highways
Chief of the Bureau of [OperationsMaintenance](#)
2300 South Dirksen Parkway, [Room 009](#)
Springfield, Illinois 62764

- c) If requested in the appeal, the Chief of the Department's Bureau of [OperationsMaintenance](#) or designee shall provide an opportunity to be heard within ten days after the request. In availing itself of this opportunity, the applicant may present evidence and arguments ~~that~~[which](#) may tend to rebut the

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District's determination which is being appealed.

- d) The Bureau Chief should either reaffirm or revise, in writing, the initial determination within 15 calendar days after having heard the applicant's appeal. If no reaffirmation or modification of the Department's determination is made within 15 calendar days, that determination shall remain in effect as if expressly affirmed.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Section 530.APPENDIX A District Offices and Counties**Region 1****Regional Engineer**District 1

Bureau of Traffic
201 West Center Court
Schaumburg IL
60196-1096
847/705-4411

Cook, DuPage, Kane, Lake,
McHenry and Will

Region 2**Regional Engineer**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

Region 3**Regional Engineer**District 4

Bureau of Operations
401 Main St.
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

Region 4

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Regional Engineer

<u>District 6</u>	<u>Bureau of Operations</u> <u>126 East Ash St.</u> <u>Springfield IL 62704-4792</u> <u>217/782-7314</u>	<u>Adams, Brown, Cass,</u> <u>Christian, Hancock, Logan,</u> <u>Macoupin, Mason, Menard,</u> <u>Montgomery, Morgan, Pike,</u> <u>Sangamon, Schuyler and Scott</u>
<u>District 7</u>	<u>Bureau of Operations</u> <u>400 West Wabash</u> <u>Effingham IL 62401</u> <u>217/342-8261</u>	<u>Clark, Clay, Coles, Crawford,</u> <u>Cumberland, Edwards,</u> <u>Effingham, Fayette, Jasper,</u> <u>Lawrence, Macon, Moultrie,</u> <u>Richland, Shelby, Wabash and</u> <u>Wayne</u>

Region 5
Regional Engineer

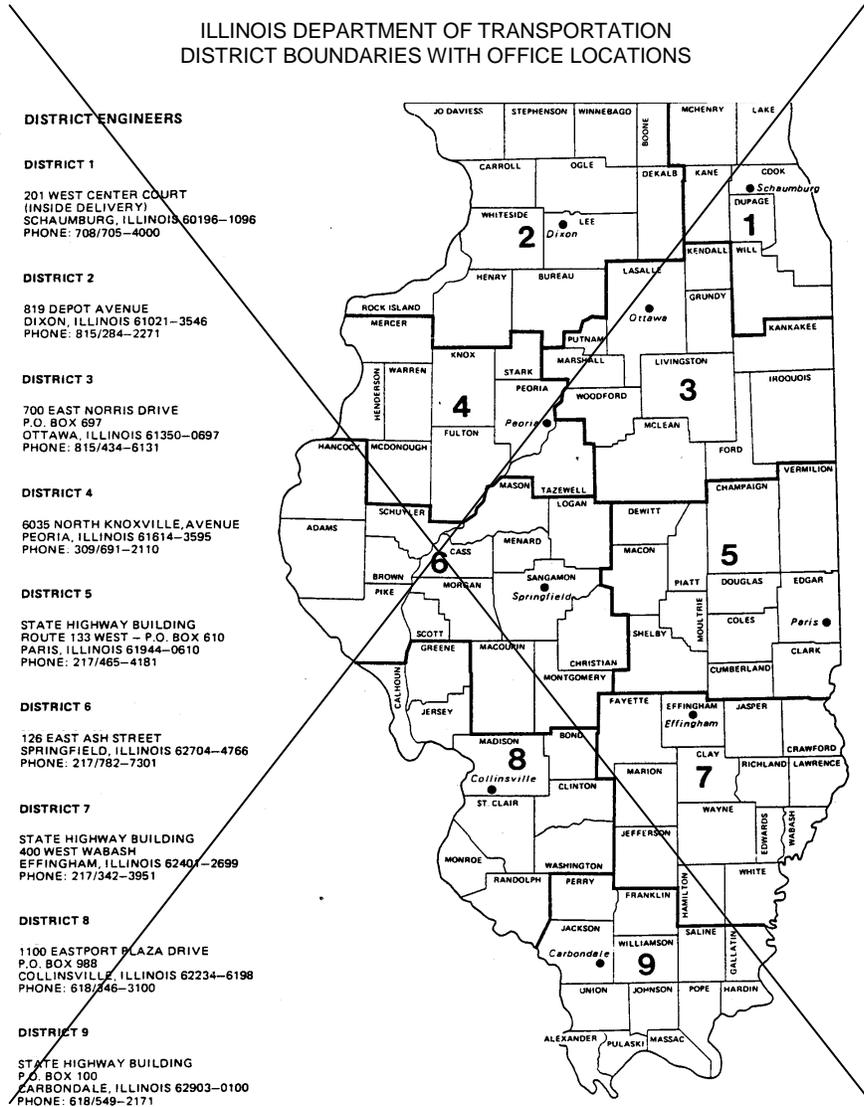
<u>District 8</u>	<u>Bureau of Operations</u> <u>1102 Eastport Plaza</u> <u>Collinsville IL 62234</u> <u>618/346-3250</u>	<u>Bond, Calhoun, Clinton,</u> <u>Greene, Jersey, Madison,</u> <u>Marion, Monroe, Randolph,</u> <u>St. Clair and Washington</u>
<u>District 9</u>	<u>Bureau of Operations</u> <u>State Transportation Building</u> <u>2801 W. Murphysboro</u> <u>P.O. Box 100</u> <u>Carbondale IL 62903</u> <u>618/351-5240</u>	<u>Alexander, Franklin, Gallatin,</u> <u>Hamilton, Hardin, Jackson,</u> <u>Jefferson, Johnson, Massac,</u> <u>Perry, Pope, Pulaski, Saline,</u> <u>Union, White and Williamson</u>

(Source: Added at 34 Ill. Reg. _____, effective _____)

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Section 530. ILLUSTRATION A District Boundary Map (Repealed)



(Source: Repealed at 34 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Foster Parent Code
- 2) Code of Citation: 89 Ill. Adm. Code 340
- 3) Section Number: 340.100 Adopted Action:
Amended
- 4) Statutory Authority: 20 ILCS 505
- 5) Effective Date of Amendment: February 1, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 6, 2009; 33 Ill Reg. 9221
- 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 made between proposal and final version.
- 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 Amendment: The Foster Parent Code (89 Ill. Adm. Code 340) is amended to require that 2 scorers (previously 3) review each implementation plan. DCFS and the Statewide Foster Care Advisory Council recommended the change in light of the resignation of one of the Council's designated scorers. No one could be found to replace the departing scorer. Members of the council were forced to score many extra plans at approximately one hour per plan. In the past several years, annual implementation plans have greatly improved. For Fiscal Year 2009, 37 plans scored above 100 points from 107 possible points. Additionally, 27 plans scored between 90

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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and 100 points, and all 71 plans were found to be acceptable. When the process began in 1996, plans were not in compliance with statute, so the Department drafted Part 340 so that 3 people scored each plan. As evidenced by the vast improvement in plan scores, it is no longer necessary for 3 people to score each plan.

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

Mr. Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498

217/524-1983
217/524-3715 (TDD)
cfpolicy@idcfs.state.il.us

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

PART 340

FOSTER PARENT CODE

SUBPART A: PURPOSE, DEFINITIONS AND INTRODUCTION

Section

- 340.10 Purpose
- 340.20 Definitions
- 340.30 Introduction

SUBPART B: FOSTER PARENT RIGHTS AND RESPONSIBILITIES

- 340.40 Foster Parent Rights
- 340.50 Foster Parent Responsibilities

SUBPART C: REQUIREMENTS FOR FOSTER PARENT ANNUAL PLAN

- 340.60 Content
- 340.70 Resolution of Foster Parent Grievances
- 340.80 Public Review
- 340.90 Annual Plan Submission

SUBPART D: REVIEW, APPROVAL, MONITORING AND REPORTING

- 340.100 Review and Approval Process
- 340.110 Monitoring
- 340.120 Reporting

SUBPART E: SEVERABILITY OF THIS PART

- 340.130 Severability of this Part

- 340.APPENDIX A Outline and Minimum Requirements for Foster Parent Law Annual Implementation Plan

- 340.APPENDIX B Rating Components for Foster Parent Law Annual Implementation

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Plan

AUTHORITY: Implementing and authorized by the Foster Parent Law [20 ILCS 520].

SOURCE: Adopted at 24 Ill. Reg. 8515, effective July 1, 2000; amended at 27 Ill. Reg. 1124, effective January 15, 2003; amended at 33 Ill. Reg. 2202, effective January 31, 2009; amended at 34 Ill. Reg. 2523, effective February 1, 2010.

SUBPART D: REVIEW, APPROVAL, MONITORING AND REPORTING

Section 340.100 Review and Approval Process

- a) The Department shall insure that appropriate staff are available to assist the Advisory Council in coordinating and conducting the evaluation of the Foster Parent Law implementation plans.
- b) The Department shall conduct an annual training, before any plans are scored, for Advisory Council members about how to score plans.
- c) ~~Two~~Three members of the Advisory Council, or their designees, shall review annual plans within 90 days after submission.
- d) Annual plans with an average rating of the three scores of 75 or more points on the rating scale will be recommended for acceptance by the Advisory Council.
- e) The Advisory Council shall vote to accept or reject each annual plan. Approval or rejection will be determined by a majority of members of the Advisory Council present at the time of voting.
- f) Annual plans that are not accepted will be returned to the Department region or purchase of service agency with an explanation of deficiencies and a request for a revised plan to be submitted to the Department's Division of Foster Care and Permanency Services within 45 calendar days. The revised plans will be given to the Advisory Council for review.
- g) Annual plans that are determined acceptable will result in a letter being sent to the Department region or purchase of service agency with a list of strengths as determined by the Advisory Council and suggestions for improvement, if any.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

(Source: Amended at 34 Ill. Reg. 2523, effective February 1, 2010)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Hospital Licensing Requirements
- 2) Code Citation: 77 Ill. Adm. Code 250
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
250.160	Amended
250.1100	Amended
- 4) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- 5) Effective Date of Rulemaking: January 27, 2010
- 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: August 7, 2009; 33 Ill. Reg. 11418
- 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 subsection 250.160(a)(2), "June 6, 2003" was deleted and the strike-out line was removed from "1998".
2. Subsection (d) in Section 250.1100 was deleted and the subsequent subsections were relettered.
3. In Section 250.1100(f)(~~e~~), "for" was inserted after "orders" and "to the medical," was stricken.
4. In Section 250.1100(h), "2007" was deleted.

DEPARTMENT OF PUBLIC HEALTH

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5. In Section 250.1100(i), "All hospitals shall comply with the Centers for Disease Control and Prevention publication "Guidelines for Hand Hygiene in Health Care Settings"." was replaced with "All hospitals shall comply with the Centers for Disease Control and Prevention publication "Guidelines for Infection Control in Health Care Personnel."".

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? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Ill. Reg. Citation:</u>
250.1130	New	33 Ill. Reg. 12347; September 4, 2009

- 15) Summary and Purpose of the Rulemaking: The Hospital Licensing Requirements establish minimum standards for hospitals in Illinois, including requirements for the control of infection from bacteria and other organisms. In 2007 Public Act 95-282 added a new Section to the Hospital Licensing Act that requires hospitals to develop and implement comprehensive policies for the prevention and control of multidrug-resistant organisms.

This proposed rulemaking adds statutory language from PA 95-282 to Section 250.1100 (Infection Control) and, as required by the Public Act, incorporates "guidelines of the U.S. Centers for Disease Control and Prevention for the management of MDROs in healthcare settings." Section 250.160 (Incorporated and Referenced Materials) is being amended by adding the CDC guidelines, "Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings 2007" and "Guidelines for Hand Hygiene in Health-Care Settings, October 25, 2002."

Also being added to Section 250.160 is the CDC guideline, "Guidelines for Disinfection and Sterilization in Healthcare Facilities," and the State statutes, the Hospital Report Card Act [210 ILCS 86] and the Illinois Adverse Health Care Events Reporting Law of 2005 [410 ILCS 522]. These three items are referenced in Part 250 in a separate rulemaking.

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The Department is adding them to Section 250.160 in this rulemaking to avoid the confusion of amending that Section in separate rulemakings.

A companion Public Act, PA 95-312, created the MRSA Screening and Reporting Act [210 ILCS 83], which requires every hospital to establish a methicillin-resistant *Staphylococcus aureus* (MRSA) control program. A new subsection being added to Section 250.1100 mandates hospitals to comply with its reporting requirements.

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

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: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250

HOSPITAL LICENSING REQUIREMENTS

SUBPART A: GENERAL

Section

- 250.110 Application for and Issuance of Permit to Establish a Hospital
- 250.120 Application for and Issuance of a License to Operate a Hospital
- 250.130 Administration by the Department
- 250.140 Hearings
- 250.150 Definitions
- 250.160 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION AND PLANNING

Section

- 250.210 The Governing Board
- 250.220 Accounting
- 250.230 Planning
- 250.240 Admission and Discharge
- 250.250 Visiting Rules
- 250.260 Patients' Rights
- 250.265 Language Assistance Services
- 250.270 Manuals of Procedure
- 250.280 Agreement with Designated Organ Procurement Agencies

SUBPART C: THE MEDICAL STAFF

Section

- 250.310 Organization
- 250.315 House Staff Members
- 250.320 Admission and Supervision of Patients
- 250.330 Orders for Medications and Treatments
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AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 5218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 13232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328, effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17 Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995; emergency amendment at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3234, effective February 15, 1996; amended at 20 Ill. Reg. 10009, effective July 15, 1996; amended at 22 Ill. Reg. 3932,

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effective February 13, 1998; amended at 22 Ill. Reg. 9342, effective May 20, 1998; amended at 23 Ill. Reg. 1007, effective January 15, 1999; emergency amendment at 23 Ill. Reg. 3508, effective March 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9513, effective August 1, 1999; amended at 23 Ill. Reg. 13913, effective November 15, 1999; amended at 24 Ill. Reg. 6572, effective April 11, 2000; amended at 24 Ill. Reg. 17196, effective November 1, 2000; amended at 25 Ill. Reg. 3241, effective February 15, 2001; amended at 27 Ill. Reg. 1547, effective January 15, 2003; amended at 27 Ill. Reg. 13467, effective July 25, 2003; amended at 28 Ill. Reg. 5880, effective March 29, 2004; amended at 28 Ill. Reg. 6579, effective April 15, 2004; amended at 29 Ill. Reg. 12489, effective July 27, 2005; amended at 31 Ill. Reg. 4245, effective February 20, 2007; amended at 31 Ill. Reg. 14530, effective October 3, 2007; amended at 32 Ill. Reg. 3756, effective February 27, 2008; amended at 32 Ill. Reg. 4213, effective March 10, 2008; amended at 32 Ill. Reg. 7932, effective May 12, 2008; amended at 32 Ill. Reg. 14336, effective August 12, 2008; amended at 33 Ill. Reg. 8306, effective June 2, 2009; amended at 34 Ill. Reg. 2528, effective January 27, 2010.

SUBPART A: GENERAL

Section 250.160 Incorporated and Referenced Materials

- a) The following regulations and standards are incorporated in this Part:
 - 1) Private and professional association standards:
 - A) American Society for Testing and Materials (ASTM), Standard No. E90-99 (2002): Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements, which may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959. (See Section 250.2420.)
 - B) The following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), which may be obtained from the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, [GeorgiaGA](#) 30329: (See Section 250.2480.)
 - i) ASHRAE Handbook of Fundamentals (2005);

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- ii) ASHRAE Handbook for HVAC Systems and Equipment (~~2004~~1996);
 - iii) ASHRAE Handbook-HVAC Applications (~~2003~~1999).
- C) The following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169:
- i) No. 101 (2000): Life Safety Code; (See Sections 250.2420, 250.2450, 250.2460, 250.2470, and 250.2490.)
 - ii) No. 10 (1998): Standards for Portable Fire Extinguishers; (See Section 250.1980.)
 - iii) No. 13 (1999): Standards for the Installation of Sprinkler Systems; (See Sections 250.2490 and 250.2670.)
 - iv) No. 14 (2000): Standard for the Installation of Standpipe, Private Hydrants and Hose Systems; (See Sections 250.2490 and 250.2670.)
 - v) No. 25 (1998): Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems;
 - vi) No. 30 (1996): Flammable and Combustible Liquids Code; (See Section 250.1980.)
 - vii) No. 45 (1996): Standard on Fire Protection for Laboratories Using Chemicals;
 - viii) No. 54 (1999): National Fuel Gas Code;
 - ix) No. 70 (1999): National Electrical Code; (See Sections 250.2440 and 250.2500.)
 - x) No. 72 (1999): National Fire Alarm Code;

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- xi) No. 80 (1999): Standard for Fire Doors and Fire Windows; (See Section 250.2450.)
- xii) No. 82 (1999): Standard on Incinerators and Waste and Linen Handling Systems and Equipment; (See Section 250.2440.)
- xiii) No. 90A (1999): Standard for Installation of Air Conditioning and Ventilating Systems; (See Sections 250.2480 and 250.2660.)
- xiv) No. 96 (1998): Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations; (See Section 250.2660.)
- xv) No. 99 (1999): Standard for Health Care Facilities; (See Sections 250.1410, 250.1910, 250.1980, 250.2460, 250.2480, 250.2490 and 250.2660.)
- xvi) No. 101-A (2001): Guide on Alternative Approaches to Life Safety; (See Section 250.2620.)
- xvii) No. 110 (1999): Standard for Emergency and Standby Power Systems;
- xviii) No. 220 (1999): Standard on Types of Building Construction; (See Sections 250.2470 and 250.2620.)
- xix) No. 221 (1997): Standard for Fire Walls and Fire Barrier Walls;
- xx) No. 241 (1996): Standard for Safeguarding Construction, Alteration and Demolition Operations;
- xxi) No. 255 and 258 (2000): Standard Method of Test of Surface Burning Characteristics of Building Materials, and Recommended Practice for Determining Smoke Generation of Solid Materials; (See Section 250.2480.)

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- xxii) No. 701 (1999): Standard Methods of Fire Tests for Flame Propagation of Textiles and Films. (See Sections 250.2460 and 250.2650.)
- D) American Academy of Pediatrics and American College of Obstetricians and Gynecologists, Guidelines for Perinatal Care, ~~Sixth~~^{Fifth} Edition (~~2007~~²⁰⁰²), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264). (See Section 250.1820.)
- E) American College of Obstetricians and Gynecologists, Guidelines for Women's Healthcare, ~~Third~~ (~~Second~~-Edition (~~2007~~²⁰⁰²)), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264). (See Section 250.1820.)
- F) National Council on Radiation Protection and Measurements (NCRP), Report No. 49: Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies up to 10 MeV (1976) and NCRP Report No. 102: Medical X-Ray, Electron Beam and Gamma-Ray Protection for Energies Up to 50 MeV (Equipment Design, Performance and Use) (1989), which may be obtained from the National Council on Radiation Protection and Measurements, 7910 Woodmont Ave., Suite 800, Bethesda, Maryland 20814-3095. (See Sections 250.2440 and 250.2450.)
- G) DOD Penetration Test Method MIL STD No. 282 (1995): Filter Units, Protective Clothing, Gas-mask Components and Related Products: Performance Test Methods, which may be obtained from Naval Publications and Form Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120. (See Section 250.2480.)
- H) National Association of Plumbing-Heating-Cooling Contractors (PHCC), National Standard Plumbing Code (2003), which may be obtained from the National Association of Plumbing-Heating-Cooling Contractors, 180 S. Washington Street, P.O. Box 6808,

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Falls Church, Virginia 22046 (703-237-8100).

- I) The International Code Council, International Building Code (2000), which may be obtained from the International Code Council, 4051 Flossmoor Road, Country Club Hills, Illinois 60477-5795. (See Section 250.2420.)
- J) American National Standards Institute, Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped (1968), which may be obtained from the American National Standards Institute, 25 West 433rd Street, 4th Floor, New York, New York 10036. (See Section 250.2420.)
- K) Accreditation Council for Graduate Medical Education, Essentials of Accredited Residencies in Graduate Medical Education (1997), which may be obtained from the Accreditation Council for Graduate Medical Education, 515 North State Street, Suite 2000, Chicago, Illinois 60610. (See Section 250.315.)
- L) Joint Commission on Accreditation of Healthcare Organizations, 2006 Hospital Accreditation Standards (HAS), Standard PC.3.10, which may be obtained from the Joint Commission on Accreditation of Healthcare Organizations, One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181. (See Section 250.1035.)
- M) [National Quality Forum, Safe Practices for Better Health Care \(2009\), which may be obtained from the National Quality Forum, 601 13th Street, NW, Suite 500 North, Washington DC 20005, or from \[www.qualityforum.org\]\(http://www.qualityforum.org\).](#)

2) Federal Government Publications:

- A) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, ["Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings 2007"](#)~~["Isolation Precautions in Hospitals", February 18, 1997](#)~~ and "Guidelines for Infection Control in Health Care Personnel, 1998, which may be

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obtained from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. (See Section 250.1100.)

- B) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guidelines for Environmental Infection Control in Health-Care Facilities: Recommendations – Animals in Health Care Facilities", "Morbidity and Mortality Weekly Report", June 6, 2003/Vol. 52/No. RR-10, which may be obtained from the Centers for Disease Control and Prevention, 1600 Clifton Road, MS K-95, Atlanta, Georgia 30333.

- C) Department of Health and Human Services, United States Public Health Services, Centers for Disease Control and Prevention, "Guidelines for Hand Hygiene in Health-Care Settings", October 25, 2002, which may be obtained from the National Technical Information Services (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

- D) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guidelines for Disinfection and Sterilization in Healthcare Facilities, 2008", which may be obtained from the Centers for Disease Control and Prevention, 1600 Clifton Road, Atlanta, Georgia 30333.

- b) All incorporations by reference of federal regulations and guidelines and the standards of nationally recognized organizations refer to the regulations, guidelines and standards on the date specified and do not include any editions or amendments subsequent to the date specified.
- c) The following statutes and State regulations are referenced in this Part:
- 1) State of Illinois statutes:
 - A) Hospital Licensing Act [210 ILCS 85].
 - B) Illinois Health Facilities Planning Act [20 ILCS 3960].

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- C) Medical Practice Act of 1987 [225 ILCS 60].
 - D) Podiatric Medical Practice Act of 1987 [225 ILCS 100].
 - E) Pharmacy Practice Act of 1987 [225 ILCS 85].
 - F) Physicians Assistant Practice Act of 1987 [225 ILCS 95].
 - G) Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25].
 - H) X-ray Retention Act [210 ILCS 90].
 - I) Safety Glazing Materials Act [430 ILCS 60].
 - J) Mental Health and Developmental Disabilities Code [405 ILCS 5].
 - K) Nurse Practice Act [225 ILCS 65].
 - L) Health Care Worker Background Check Act [225 ILCS 46].
 - M) [MRSA Screening and Reporting Act \[210 ILCS 83\].](#)
 - N) [Hospital Report Card Act \[210 ILCS 88\].](#)
 - O) [Illinois Adverse Health Care Events Reporting Law of 2005 \[410 ILCS 522\].](#)
 - P) [Smoke Free Illinois Act \[410 ILCS 82\].](#)
- 2) State of Illinois rules:
- A) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890).
 - B) Department of Public Health, Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545).
 - C) Department of Public Health, Control of Communicable Diseases

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Code (77 Ill. Adm. Code 690).

- D) Department of Public Health, Food Service Sanitation Code (77 Ill. Adm. Code 750).
- E) Department of Public Health, Public Area Sanitary Practice Code (77 Ill. Adm. Code 895).
- F) Department of Public Health, Maternal Death Review (77 Ill. Adm. Code 657).
- G) Department of Public Health, Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693).
- H) Department of Public Health, Control of Tuberculosis Code (77 Ill. Adm. Code 696).
- D~~G~~) Department of Public Health, Health Care Worker Background Check Code (77 Ill. Adm. Code 955).
- J~~H~~) Department of Public Health, Language Assistance Services Code (77 Ill. Adm. Code 940).
- K~~D~~) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400).
- L~~J~~) State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120).
- M~~K~~) State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100).
- N~~L~~) Illinois Emergency Management Agency, Standards for Protection Against Radiation (32 Ill. Adm. Code 340).
- O~~M~~) Illinois Emergency Management Agency, Use of X-rays in the Healing Arts Including Medical, Dental, Podiatry, and Veterinary Medicine (32 Ill. Adm. Code 360).

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(Source: Amended at 34 Ill. Reg. 2528, effective January 27, 2010)

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section 250.1100 Infection Control

- a) A hospital shall designate a person or persons as Infection Prevention and Control Professionals to develop and implement policies governing control of infections and communicable diseases. The Infection Prevention and Control Professionals shall be qualified through education, training, experience and/or certification, and the qualifications shall be documented.
- b)a) ~~A~~ There shall be a multidisciplinary Infection Control Committee, composed at least of members of the medical staff ~~and,~~ nursing staff, the Infection Prevention and Control Professionals, and the supervisor of Central Sterile Supply and administration, ~~shall be responsible for~~ charged with the responsibility of investigations and recommendations for the prevention and control of infections within the hospital. This Committee shall perform an annual facility-wide infection control risk assessment. (Section 6.23 of the Act)
- c)b) Policies and procedures for ~~the reporting and care of~~ cases of communicable diseases and for the care of patients with communicable diseases shall be in accordance with ~~77 Ill. Adm. Code 690,~~ the Control of Communicable Diseases Code, the Control of Sexually Transmissible Diseases Code and the Control of Tuberculosis Code.
- d)e) When patients having a communicable disease, or presenting signs and symptoms suggestive of ~~that such~~ diagnosis, are admitted, proper precautionary measures shall be taken to avoid cross-infection to personnel, other patients, or the public.
- e)d) The hospital shall provide facilities and equipment for the isolation of known or suspected cases of infectious disease.
- f)e) Policies and procedures for ~~the handling of~~ infectious cases shall include orders ~~for to the medical,~~ nursing, and non-professional staffs providing for proper isolation technique.
- g)f) All persons who care for patients with or suspected of having a communicable disease, or whose work brings them in contact with materials that are potential

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conveyors of communicable disease, shall take appropriate safeguards to avoid transmission of the disease agent.

- h) The hospital shall develop and implement comprehensive interventions to prevent and control multidrug-resistant organisms (MDROs), including methicillin-resistant Staphylococcus aureus (MRSA), vancomycin-resistant enterococci (VRE), and certain gram-negative bacilli (GNB), that take into consideration guidelines of the Centers for Disease Control and Prevention for the management of MDROs in healthcare settings, including the "Guidelines for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings" and "Guidelines for Hand Hygiene in Health-Care Settings". (Section 6.23 of the Act)
- i) All hospitals shall comply with the Centers for Disease Control and Prevention publication "Guidelines for Infection Control in Health Care Personnel".
- j) The multidisciplinary Infection Control Committee shall be responsible for developing, implementing, monitoring, and enforcing a hand hygiene program in the hospital. For the purposes of this Section, "hand hygiene" is a general term that applies to hand washing with plain soap and water; antiseptic hand wash using soap containing antiseptic agents and water; antiseptic hand rub using a waterless antiseptic product, most often alcohol based, rubbed on the surface of the hands; or surgical hand antiseptic.
- 1) The Committee shall assess the current practices and compliance, assess hand hygiene products that are currently being used, solicit input from clinical staff, and develop a hand hygiene program for all staff.
 - 2) All staff (including contractual and medical) shall be educated in the hand hygiene program during initial orientation and at least annually. This education shall be documented.
 - 3) The program shall have clear written goals that require quantitative, time-specific improvement targets.
 - 4) The Committee shall develop and implement measurement tools to be used to assure ongoing compliance with the program.
 - 5) The program shall incorporate the requirements for hand hygiene in

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educational materials presented to all staff on an ongoing basis; engage patients and families in the hand hygiene efforts; monitor compliance of all staff with recommended measurement tools for hand hygiene, including immediate feedback to personnel; and track compliance over time.

6) The results of the monitoring shall be incorporated in the Quality Assurance/Quality Improvement Program.

k)g) Contaminated~~The handling and disposal of contaminated~~ material shall be handled and disposed of in a manner designed to prevent the transmission of the infectious agent.

l)h) Thorough hand hygiene~~handscrubbing~~ shall be required after touching any contaminated or infected material.

m)i) Whenever the Control of Communicable Diseases Code and the Control of Tuberculosis Code require~~requires~~ the submission of laboratory specimens for the release of a patient from isolation or quarantine and the hospital laboratory is not approved by the Department for the performance of the specific tests, ~~then~~ the specimens shall be submitted to the laboratories of the Illinois Department of Public Health or other laboratory licensed by the Department for the specific tests required.

n)j) The hospital shall establish a systematic plan of checking and recording cases of infection, known or suspected, ~~that~~which develop in the institution; ~~these~~such cases shall be reported to the Infection Control Committee~~infection committee~~ and hospital administration. The Committee~~committee~~ shall be empowered and directed to investigate health care-associated nosocomial infections to determine the causative organism and its possible sources. The findings and recommendations of the Infection Control Committee~~infection committee~~ shall be reported to the medical staff and ~~or~~ administration for corrective action.

o)k) Policies~~There shall be policies~~ and procedures related to this Section~~the above~~ and to the following items shall be developed~~but not limited thereto~~:

1) The admission and isolation of patients with specific and/or suspected infectious diseases, and protective isolation of appropriate patients.

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- 2) In-service education programs on the control of infectious diseases.
- 3) Policies and procedures for isolation techniques appropriate to the working diagnosis of the patient, and protective routines for personnel and visitors.
- 4) The recording and reporting of all infections of clean surgical cases to the Infection Control Committee, and procedures for the investigation of ~~thosesuch~~ cases.

p) *In order to improve the prevention of hospital-associated bloodstream infections due to methicillin-resistant Staphylococcus aureus (MRSA), every hospital shall establish an MRSA control program that requires:*

- 1) *Identification of all MRSA-colonized patients in all intensive care units, and other at-risk patients identified by the hospital, through active surveillance testing.*
- 2) *Isolation of identified MRSA-colonized or MRSA-infected patients in an appropriate manner.*
- 3) *Monitoring and strict enforcement of hand hygiene requirements.*
- 4) *Maintenance of records and reporting of cases under Section 10 of the Act. (Section 5 of the MRSA Screening and Reporting Act)*

(Source: Amended at 34 Ill. Reg. 2528, effective January 27, 2010)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Children's Community-Based Health Care Center Program Code
- 2) Code Citation: 77 Ill. Adm. Code 260
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
260.1000	Amended
260.1900	Amended
260.2500	Amended
- 4) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]
- 5) Effective Date of Rulemaking: January 27, 2010
- 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: September 4, 2009; 33 Ill. Reg. 12362
- 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 260.1900(j), "child's parent or" was inserted after "Every".
2. In Section 260.1900(k), "child" was stricken and "child's parent" was inserted before "or".
3. In Section 260.1900(n), "parent or child's" was inserted before "representative".
4. In Section 260.1900(o), "parent or child's" was inserted before "representative".

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5. In Section 260.1900(q), "parent or child's" was inserted before "representative" in the second line and the fourth line.
6. In Section 260.1900(v), "parent or child's" was inserted before "representative".

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? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Ill. Reg. Citation:</u>
260.1200	Amend	34 Ill. Reg. 754; January 15, 2010

- 15) Summary and Purpose of Rulemaking: The Children's Community-Based Health Care Center Program Code provides for minimum requirements for Children's Community-Based Health Care Centers, which provide nursing care, clinical support services, and therapy for short stays or long stays, for children in a transitional phase between hospitals and home. Section 260.1000 (Definitions) has been amended to add a definition for "serious injury." Section 260.1900 (Child's Rights) has been amended to require that all staff be trained in the use of restraints, including performing assessments of a child while in restraints. Section 260.2500 (Quality Assessment and Improvements) has been amended to add "medication administration" to the list of categories of care that require ongoing monitoring and evaluations, and to establish a maximum time frame for the reporting of serious incidents and accidents to the Department.

The majority of children who receive services from Children's Community-Based Health Care Centers are on Medicaid. The Department of Healthcare and Family Services (HFS) contacted the Department, saying that the federal Center for Medicare and Medicaid Services, which audits HFS, had some concerns regarding the time frame for reporting incidents and the specific training that is related to restraints and medication administration. The adopted amendments address these concerns.

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

DEPARTMENT OF PUBLIC HEALTH

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

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: HOSPITALS AND AMBULATORY CARE FACILITIESPART 260
CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTER PROGRAM CODE

Section

260.1000	Definitions
260.1050	Incorporated and Referenced Materials
260.1100	Demonstration Program Elements
260.1200	Application for and Issuance of a License to Operate a Children's Community-Based Health Care Center Model
260.1300	Obligations and Privileges of Children's Community-Based Health Care Center Models
260.1400	Inspections and Investigations
260.1500	Notice of Violation and Plan of Correction
260.1600	Adverse Licensure Action
260.1700	Policies and Procedures
260.1750	Health Care Worker Background Check
260.1800	Admission and Participation Practices
260.1900	Child's Rights
260.2000	Child Care Services
260.2100	Medication Administration
260.2200	Personnel
260.2300	Food Service
260.2400	Physical Plant
260.2500	Quality Assessment and Improvement

AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act [210 ILCS 3].

SOURCE: Adopted at 22 Ill. Reg. 3899, effective February 20, 1998; amended at 24 Ill. Reg. 14016, effective August 31, 2000; amended at 26 Ill. Reg. 11974, effective July 31, 2002; emergency amendment at 27 Ill. Reg. 7937, effective April 30, 2003, for a maximum of 150 days; emergency expired September 26, 2003; amended at 27 Ill. Reg. 18070, effective November 12, 2003; amended at 30 Ill. Reg. 883, effective January 9, 2006; amended at 31 Ill. Reg. 3008, effective February 2, 2007; amended at 34 Ill. Reg. 2551, effective January 27, 2010.

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Section 260.1000 Definitions

The following terms shall have the meanings ascribed to them here whenever the term is used in this Part.

Abuse – any physical or mental injury or sexual assault inflicted on a patient other than by accidental means in a center. Abuse includes:

Physical abuse refers to the infliction of injury on a patient that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to patients or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Act – the Alternative Health Care Delivery Act [210 ILCS 3].

Affiliate –

With respect to a partnership, each partner thereof;

With respect to a corporation, each officer, director and stockholder thereof;

With respect to a natural person: any person related in the first degree of

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NOTICE OF ADOPTED AMENDMENTS

kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.

Board – *the State Board of Health.* (Section 10 of the Act)

Charitable Care – the intentional provision of free or discounted services to persons who cannot afford to pay.

Children with Special Health Care Needs – those children who have or are at increased risk for chronic physical ailments and who require health and related services of a type or amount beyond that ~~which children generally require~~required by children generally.

Children's Representative – a person authorized by law to act on behalf of the child.

Children's Community-Based Health Care Center or Center – *a designated site that provides nursing care, clinical support services, and therapies for a period of one to 14 days for short-term stays and one to 120 days to facilitate transitions to home or other appropriate settings for medically fragile children, technology dependent children, and children with special health care needs who are deemed clinically stable by a physician and are younger than 22 years of age. This care is to be provided in a home-like environment that serves no more than 12 children at a time.* (Section 35(3) of the Act)

Demonstration Program or Program – *a program to license and study alternative health care models authorized under the Act.* (Section 10 of the Act)

Department – *the Illinois Department of Public Health.* (Section 10 of the Act)

Diagnostic Studies – any analytic tests, including, but not limited to, heart monitoring or sleep tests, used in identifying the nature or cause of an illness, disorder or problem that are typically done in the home and that are conducted in a Children's Community-Based Health Care Center for children with special health care needs.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and

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Nutrition Services Practice Act [225 ILCS 30].

Director – the *Director of Public Health* or designee. (Section 10 of the Act)

Hospital – a facility licensed pursuant to the Hospital Licensing Act [210 ILCS 85].

Inspection – any survey, evaluation or investigation of the Children's Community-Based Health Care ~~Center's~~~~Center Model's~~ compliance with the Act and this Part by the Department or designee.

Licensee – the person or entity licensed to operate the Children's Community-Based Health Care Center Model.

Medical Day Care – care provided by a Children's Community-Based Health Care Center for children with special health care needs for no more than 12 in 24 hours, in accordance with Section 260.1800(c) of this Part.

Medically Fragile Children – children who are medically stable but require skilled nursing care, specialized therapy, and specialized medical equipment and supplies to enhance or sustain their lives. "Medically fragile children" may include, but is not limited to, children who have neuro-muscular disease, heart disease, cancer, seizure disorder, spina bifida, chronic lung disease, or other medical conditions that threaten the child's ability to thrive and to survive without proper medical care.

Neglect – a failure in a center to provide adequate medical or personal care or maintenance, resulting in physical or mental injury to a patient or in the deterioration of a patient's physical or mental condition. Neglect shall include any situation in which:

failure to provide adequate medical or personal care or maintenance causes injury or deterioration that is ongoing or repetitious; or

failure to provide adequate medical or personal care or maintenance results in a patient requiring medical treatment; or

failure to provide adequate medical or personal care or maintenance causes a noticeable negative impact on a patient's health, behavior or

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activities for more than 24 hours.

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

Registered Nurse – a person who is licensed as a registered professional nurse under the ~~Nurse~~Nursing and Advanced Practice Nursing Act of 1987 [225 ILCS 65].

Restraint – any manual method, physical or mechanical device, material or equipment that immobilizes or reduces the ability of the child to move his or her arms, legs, body or head freely; or a drug or medication when it is used as a restriction to manage the child's behavior or restrict the child's freedom of movement and is not a standard treatment or dosage for the child's condition. A restraint does not include devices such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of the child for the purpose of conducting routine physical examinations or tests, or to protect the child from falling out of the bed, or to permit the child to participate in activities without the risk of physical harm.

Serious Injury – any significant impairment of the physical condition of the child as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hemotoma and injuries to internal organs, whether self-inflicted or inflicted by another person.

Substantial Compliance – meeting requirements except for variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 260.1200.

Technology Dependent Children – medically fragile children who require the constant or regular intermittent use of technology to meet their medical needs. This may include, but is not limited to, devices that assist or support breathing, monitor bodily functions, or provide nutrition.

Weekend Camps – a planned program for medically fragile children, technology dependent children, or children with special health care needs that consists typically of Friday afternoon through Sunday evening.

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(Source: Amended at 34 Ill. Reg. 2551, effective January 27, 2010)

Section 260.1900 Child's Rights

- a) A child shall not be deprived of any rights, benefits, or privileges guaranteed by law based solely on his/her status as a patient of the centerfacility.
- b) A child shall be permitted to retain and use or wear his/her personal property in his/her immediate living quarters unless deemed medically inappropriate or socially disruptive by a physician and so documented in the patient's record.
- c) The centerfacility shall make reasonable efforts to prevent loss and theft of children's property. The centerfacility shall develop procedures for investigating complaints concerning theft of children's property and shall promptly investigate all such complaints.
- d) Children under 16 years of age who are related to employees or volunteers of a centerfacility, and who are not themselves employees/volunteers of the centerfacility, shall be restricted to quarters reserved for family or employee use, except during times when thesesuch children are part of a group visiting the centerfacility as part of a planned program, or similar activity.
- e) A child shall be permitted the free exercise of religion. Upon the child's request, and if necessary at his/her expense, the centerfacility management shall make arrangements for a child's attendance at religious services of the child's choice. However, no religious beliefs or practices, or attendance at religious services, may be imposed upon any child.
- f) The centerfacility shall notify the child's parent or child's representative whenever the child suffers from a sudden illness or accident, or if and when unexplained absences occur.
- g) A child may not be transferred, discharged, evicted, harassed, dismissed or retaliated against for filing a complaint or providing information concerning a complaint against the centerfacility.
- h) A child shall be permitted to retain the services of his/her own personal physician at his/her own expense, under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage.

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- i) No child shall be subjected to experimental research or treatment without first obtaining his/her parent's, or his/her representative's, informed written consent. The experimental research/treatment shall be part of the child's service plan.
- j) Every child's parent or child's representative shall be permitted to refuse medical treatment for the child and to know the consequences of such action.
- k) Every child's parent or child's representative shall be permitted to inspect and copy all of the child's clinical and other records concerning the child's care and maintenance kept by the center or by the child's physician.
- l) All children shall be permitted respect and privacy in their medical and personal care program. Every child's case discussion, consultation, examination and treatment shall be confidential and shall be conducted discreetly. Those persons not directly involved in the child's care must have the permission of the child's representative to be present.
- m) Neither physical restraints nor confinements shall be employed for the purpose of punishment or for the convenience of any center personnel or volunteer. High chairs, playpens, cribs or youth beds are not restraints for children less than 4 years old.
- n) Restraints shall be used only for the safety and security of the child upon written order of the attending physician and with the informed consent of the child's parent or child's representative. The physician's written authorization shall specify the precise time periods and conditions in which any restraints or confinements shall be employed. The reasons for ordering and using restraints shall be recorded in the child's service plan. Staff shall be trained and be able to demonstrate, at least annually, competency in the application of restraints and in the monitoring, assessment and provision of care for the client in restraints. The training shall include techniques to identify client behaviors and events that may trigger circumstances that require the use of restraints and the safe application and use of all types of restraints, including:
- 1) Training in how to recognize and respond to signs of physical and psychological distress; and

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2) The clinical identification of specific behavioral or medical changes that indicate the restraint is no longer necessary.

- o) The centerfacility management shall ensure that children may have private visits at any reasonable hour unless thosesueh visits are not medically advisable for the child or are contrary to the directions of the child's parent or child's representative as documented in the child's service plan. The centerfacility shall allow daily visiting. Visiting hours shall be posted in plain view of visitors. The centerfacility management shall ensure that space for visits is available and that centerfacility personnel knock, except in an emergency, before entering any child's room.
- p) No visitor shall enter the immediate living area of any child without first identifying himself/herself and then receiving permission from the child to enter. The rights of other children present in the room shall be respected. CenterFacility staff may terminate visits or provide other accommodations for the visit if they are so requested by the child, or the visitor is involved in behavior violating other children's rights.
- q) A child shall be voluntarily discharged from a centerfacility after the child's parent or child's representative gives centerfacility management, a physician, or a nurse of the centerfacility written notice of the desire to be discharged. A child shall be discharged upon written consent of the child's parent or child's representative unless there is a court order to the contrary. In such cases, upon the child's discharge, the centerfacility is relieved of any responsibility for the child's care, safety or well-being.
- r) The centerfacility shall establish involuntary discharge procedures in accordance with subsection (s) of this Section, which shall include at least the following:
- 1) Child's behavior that may result in involuntary discharge;
 - 2) Child's decline or improvement in medical condition that may result in involuntary discharge;
 - 3) Child, parent, and child's representative counseling that may be provided to avoid involuntary discharge;
 - 4) Notification of child'sChild's parent and child's representative notification

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concerning involuntary discharge; and

- 5) Time frames between counseling, notice, and involuntary discharge.
- s) A centerfacility may involuntarily transfer or discharge a child only for one or more of the following reasons:
 - 1) The child's medical condition;
 - 2) The child's physical safety; and
 - 3) The child's action that directly impinges on the physical safety of other children, the centerfacility staff or centerfacility visitors.
- t) A licensee, centerfacility manager, employee, volunteer or agent of a centerfacility shall not abuse or neglect a child.
- u) A centerfacility employee, agent or volunteer who becomes aware of abuse or neglect of a child shall immediately report the matter to the centerfacility manager or designee.
- v) Upon becoming aware of abuse or neglect, the centerfacility manager or designee shall immediately report the matter by telephone and in writing to the child's parent or child's representative and the Department.

(Source: Amended at 34 Ill. Reg. 2551, effective January 27, 2010)

Section 260.2500 Quality Assessment and Improvement

- a) The licensee shall develop and implement a quality assessment and improvement program designed to meet at least the following goals:
 - 1) Ongoing monitoring and evaluation of the quality and accessibility of care and services provided at the centerfacility or under contract, including but not limited to:
 - A) Admission of children appropriate to the capabilities of the centerfacility;

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- B) Client satisfaction;
 - C) Costs for delivery of services; ~~and~~
 - D) Infection control and safety; ~~and~~
 - E) Medication administration.
- 2) Identification and analysis of problems.
 - 3) Identification and implementation of corrective action or changes in response to problems.
- b) The program shall operate pursuant to a written plan, which shall include, but not be limited to:
- 1) A detailed statement of its goals;
 - 2) The methodology and criteria that will be used to meet each stated goal;
 - 3) The action plans for addressing problems;
 - 4) Procedures for evaluating the effectiveness of action plans and revising action plans to prevent reoccurrence of problems;
 - 5) Procedures for documenting the activities of the program; and
 - 6) Identification of the persons responsible for administering the program.
- c) The center shall report to the Department, no later than 5 p.m. the next business day, any serious incident or accident involving a child. The report shall include the name of the child, a description of the incident or accident, and the date and time of the incident or accident. Incidents or accidents include, but are not limited to:
- 1) A serious injury to a child, including while in a restraint;
 - 2) A child's death while he or she is a resident in the center; or

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3) A serious medication error resulting in medical intervention and/or hospitalization.

de) The licensee shall afford the Department and the Board access to any materials or documents generated pursuant to the center's facility's quality assessment and improvement program or that otherwise relate to client demand, utilization and satisfaction; cost effectiveness; financial viability of the center facility; and access to services. This ~~Such~~ information shall be used by the Department and the Board to evaluate and assess the center facility in relation to the Demonstration Program.

(Source: Amended at 34 Ill. Reg. 2551, effective January 27, 2010)

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Payment of War on Terrorism Compensation
- 2) Code Citation: 95 Ill. Adm. Code 123
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
123.10	New
123.20	New
123.30	New
123.40	New
123.50	New
123.60	New
123.70	New
- 4) Statutory Authority: War on Terrorism Compensation Act [330 ILCS 32]
- 5) Effective Date of Rules: January 29, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department of Veterans' Affairs principal office and is available for public inspection
- 9) Notice of Proposal Published in Illinois Register: August 28, 2009; 34 Ill. Reg. 12222
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: No substantive changes were made to the proposed rulemaking.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No. A companion emergency rulemaking expired on January 13, 2010.
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED RULES

- 15) Summary and Purpose of Rulemaking: Replace emergency rules that allowed DVA to proceed with dispersing bonus payments.
- 16) Information and questions regarding these adopted rules shall be directed to:

Jack Price, General Counsel
Department of Veterans' Affairs
833 S. Spring Street
Springfield IL 62794-9432

217/557-5682

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

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED RULES

TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER I: DEPARTMENT OF VETERANS' AFFAIRSPART 123
PAYMENT OF WAR ON TERRORISM COMPENSATION

Section	
123.10	General Purpose
123.20	Definitions
123.30	Eligibility
123.40	Disqualification
123.50	Application
123.60	Disability
123.70	Appeal

AUTHORITY: Implementing and authorized by the War on Terrorism Compensation Act [330 ILCS 32].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 12275, effective August 17, 2009, for a maximum of 150 days; emergency expired January 13, 2010; adopted at 34 Ill. Reg. 2565, effective January 29, 2010.

Section 123.10 General Purpose

The intent and purpose of this Part is to implement the War on Terrorism Compensation Act [330 ILCS 32] and make a bonus payment to those persons who served in the armed forces of the United States and received the Global War on Terrorism Expeditionary or Service Medal.

Section 123.20 Definitions

"Act" means the War on Terrorism Compensation Act [330 ILCS 32].

"Armed Forces of the United States" means the United States Army, Navy, Air Force, Marines, Coast Guard, the United States Reserve Forces, or the Illinois National Guard. Service in the Merchant Marine or civilian service is not service in the armed forces for the purposes of this Part.

"Department" means the Illinois Department of Veterans' Affairs.

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NOTICE OF ADOPTED RULES

"Resident of this State" means a person who was domiciled in Illinois for at least 12 months immediately preceding the time he or she entered the Armed Forces of the United States, as shown by documentation such as Illinois driver's license or voter registration.

"Honorably Discharged" means either an Honorable Discharge or a Discharge Under Honorable Conditions. No other form of discharge is acceptable.

"Legal Disability" means a finding of legal disability by a court of competent jurisdiction or by any adjudication officer of the United States Department of Veterans' Affairs.

"Period of Service" means from September 11, 2001 until such time as the Congress of the United States declares the person ineligible for the Global War on Terrorism Expeditionary or Service Medal.

Section 123.30 Eligibility

Every person who served on active duty with the Armed Forces of the United States on or after September 11, 2001 and prior to the date Congress ends eligibility for the Global War on Terrorism Expeditionary or Service Medal is entitled to receive \$100 for that service, subject to legislative appropriation, if:

- a) he or she was a resident of this State; and
- b) he or she is still in active service and has not been separated by a discharge except Honorable or Under Honorable Conditions, has been honorably separated from service, has been furloughed to a reserve, or has been retired; and
- c) he or she has received the Global War on Terrorism Expeditionary or Service Medal.

Section 123.40 Disqualification

An applicant is disqualified for receipt of this award if:

- a) he or she was discharged under any circumstances other than honorable;

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED RULES

- b) he or she was transferred to the reserve or retired under any conditions other than honorable;
- c) service time was not within the period of service as defined;
- d) the Global War on Terrorism Expeditionary or Service Medal was not awarded;
- e) no qualifying service outside the United States of at least 30 consecutive or 60 nonconsecutive days occurred;
- f) he or she was not a resident of Illinois as defined by this Part;
- g) he or she has received a Global War on Terrorism Bonus from any other state or compensation of like nature as set forth in the Act; or
- h) the service member is deceased.

Section 123.50 Application

Application must include proof, by documents such as DD214, Armed Forces Certificate or other document showing service in the Armed Forces during the period of service that included at least 30 consecutive or 60 nonconsecutive days of service outside the United States or its territories, and the award of the Global War on Terrorism Expeditionary or Service Medal. Application must also include proof, by documents such as an Illinois driver's license or voter registration, that applicant was a resident of Illinois as defined by this Part.

Section 123.60 Disability

If a person to whom compensation is payable under this Part is under a legal disability, the compensation shall be paid to the person legally vested with the care of the legally disabled person under the laws of his or her state of residence, or, if no person is so vested, then to the administrator of any hospital or institution under the supervision or control of a state or of the United States Department of Veterans' Affairs in which the legally disabled person is placed. The bonus shall be held or used solely for the benefit of the disabled person. Under no circumstances is this award transferrable to anyone other than the named recipient.

Section 123.70 Appeal

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED RULES

Any applicant whose application for the Global War on Terrorism bonus has been denied may appeal the denial to General Counsel, Illinois Department of Veterans' Affairs, 833 S. Spring Street, Springfield IL 62794. The appeal must contain a copy of the application, a copy of the denial letter, and a clear statement of the reason why the appellant believes the denial was improper.

BOARD OF HIGHER EDUCATION

NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Private Colleges and Universities Capital Distribution Formula
- 2) Code Citation: 23 Ill. Adm. Code 1039
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
1039.10	New
1039.20	New
1039.30	New
1039.40	New
1039.50	New
1039.60	New
1039.70	New
1039.80	New
1039.90	New
- 4) Statutory Authority: Implementing and authorized by the Private Colleges and Universities Capital Distribution Formula Act [30 ILCS 769/Art. 25], Build Illinois Act [30 ILCS 750] and Section 4 of the Build Illinois Bond Act [30 ILCS 425]
- 5) Effective Date of Rules: January 28, 2010
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: Upon adoption of the identical proposed rules filed concurrently with these emergency rules.
- 7) Date Filed with the Index Department: January 28, 2010
- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Board's principal office and is available for public inspection.
- 9) Reason for Emergency: The 96th General Assembly authorized emergency rulemaking to implement the fiscal year 2010 budget initiatives (PA 96-45, Sec. 5-45). New legislation in the FY2010 Budget Implementation (Capital) Act (PA 96-37) created the Private Colleges and Universities Capital Distribution Formula Act. The Act authorizes the Board to distribute the proceeds from new Build Illinois Bond sales to nonpublic, non-profit institutions of higher education for capital projects. Identical proposed rules are being submitted simultaneously for publication in the *Illinois Register*.

BOARD OF HIGHER EDUCATION

NOTICE OF EMERGENCY RULES

- 10) A Complete Description of the Subjects and Issues Involved: The Private Colleges and Universities Capital Distribution Formula Act has a distribution formula for grants to non-profit private colleges and universities from the proceeds of \$300 million in Build Illinois bond sales. As proceeds become available, the funds will be distributed by the Illinois Board of Higher Education. The proposed rules are needed to: (1) identify eligible institutions, (2) determine eligible capital projects, (3) verify enrollment for the distribution formula, (4) sequence the distribution, and (5) comply with state accountability requirements. The Board staff has consulted with authorized representatives of private institutions in the development of this rule.
- 11) Are there any Proposed rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objectives: The emergency rule does not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805/3].
- 13) Information and questions regarding these rules shall be directed to:

Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, Illinois 62701
helland@ibhe.org

217/557-7358

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

BOARD OF HIGHER EDUCATION

NOTICE OF EMERGENCY RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1039

PRIVATE COLLEGES AND UNIVERSITIES CAPITAL DISTRIBUTION FORMULA

Section

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AUTHORITY: Implementing and authorized by the Private Colleges and Universities Capital Distribution Formula Act [30 ILCS 769/Art. 25], Build Illinois Act [30 ILCS 750] and Section 4 of the Build Illinois Bond Act [30 ILCS 425].

SOURCE: Emergency rules adopted at 34 Ill. Reg. 2571, effective January 28, 2010, for a maximum of 150 days.

Section 1039.10 Purpose**EMERGENCY**

The purpose of this Part is to provide for the distribution of grant funds to nonpublic, nonprofit

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institutions of higher education as appropriated under the Private Colleges and Universities Capital Distribution Formula Act.

Section 1039.20 Definitions**EMERGENCY**

"Board" means the Illinois Board of Higher Education.

"Capital Projects" means the *construction, repair, renovation, and miscellaneous capital improvements, including the planning, engineering, acquisition, reconstruction, remodeling, improvement, repair and installation of capital facilities and costs of planning, supplies, equipment, materials, services, and all other required expenses.* [30 ILCS 425/4(c)] It does not include the following:

The repair, renovation or construction of facilities used for sectarian instruction, religious worship or a school or department of divinity or in which a majority of the functions of the facilities are subsumed in a religious mission. For the purposes of this grant, a "school or department of divinity" means an institution, or a department of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

The repair, renovation or construction of the proportional share of joint use facilities that either:

provide personal residential space for owners, administrators or persons who are not students of the institution; or

provide offices used to conduct business activities unrelated to the educational mission of the institution.

"DFPR" means the Illinois Department of Financial and Professional Regulation or its successor.

"Fall Term" means the part of the academic year that begins between late August and November 1.

"FTE" means the full-time equivalent of students as determined by Section 1039.40 who were enrolled in the fall 2008 term.

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"Grant Period" means the term that begins on July 13, 2009 as provided in the grant agreement, not to exceed five years.

"Independent Colleges" means, solely for the purposes of this Part, nonpublic, nonprofit colleges and universities based in Illinois which have either been authorized to operate within the State of Illinois pursuant to the Private College Act [110 ILCS 1005] and/or the Academic Degree Act [110 ILCS 1010] or have been in continuous operation and granted degrees within the State of Illinois before the effective date of those Acts and have not modified the business entity since the effective dates of those Acts. The term does not include any institution that primarily or exclusively provided online education services as of the fall 2008 term. [30 ILCS 769/25-5] For the purposes of this Part, primarily or exclusively means greater than 75 percent of the courses offered by the institution. The term does not include any educational organization primarily used for sectarian instruction, as a place of religious teaching or worship or for any religious denomination or the training of ministers, priests, rabbis or other professional persons in the field of religion.

**Section 1039.30 Eligibility
EMERGENCY**

- a) Eligible institutions shall be independent colleges as defined in Section 1039.20.
- b) Grants will be awarded only for capital projects as defined in Section 1039.20.

**Section 1039.40 Determination of Fall 2008 FTE
EMERGENCY**

- a) The fall 2008 FTE shall be determined pursuant to this Section.
- b) The last day that a student may add or withdraw classes during the fall term without imposition of a financial penalty shall be the date that the number of students enrolled and attending shall be determined.
- c) Students reported are enrolled in a course or courses creditable toward a degree or other formal postsecondary award, but does not include students enrolled in any academic program that results in an award less than an associate's degree or degree programs that prepare individuals for the professional practice of religious

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vocations.

- d) The number of FTE is calculated based on the total number of credit or contact hours for the undergraduate and graduate students. Total hours are converted into full-time equivalents based on hours and education level. Any fraction of the total FTE at the education level will be dropped.
 - 1) Undergraduate FTE enrollment shall be determined by dividing the total credit hours (or equivalent) by 15. For graduate programs, FTE enrollment shall be determined by dividing the total credit hours by 12.
 - 2) For institutions which do not grant credit hours, the credit hour value of each unit is obtained by dividing the number of units required for a typical baccalaureate degree into 120 for semester hour equivalency or 180 for quarter hour equivalency.
- e) The fall instructional hours by education level will be recorded and certified by the institution on a form provided by the Board.
- f) Verification of the hours by an external auditor is required.

**Section 1039.50 Application
EMERGENCY**

An independent college desiring to receive grant funds must submit a grant application to the Board.

- a) Applications for grant funds shall be made on prescribed forms developed by the Board and shall include, without being limited to, the following provisions and information:
 - 1) The name, address, chief officers and general description of the applicant;
 - 2) Certification that the institution is an independent college as defined in Section 1039.20;
 - 3) Certification that the grant funds will be used for capital projects as defined in Section 1039.20;

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- 4) Certification of credit hours for the fall 2008 term and an audit pursuant to Section 1039.90(b);
 - 5) A description of the capital projects for which grant funding is requested;
 - 6) Such plans and other documents as may be required to show the type, structure and general character of the capital projects for which grant funding is requested; and
 - 7) Cost estimates of the capital projects for which grant funding is requested.
- b) Grant applications may be obtained from the Illinois Board of Higher Education, 431 East Adams Street, Second Floor, Springfield, Illinois 62701-1404 or the Board's website at www.ibhe.org.
 - c) Completed applications must be submitted to the Board at the address indicated in subsection (b) and must be received by the announced deadline for the submission of applications, which shall not be less than 45 days from the announcement and release of application materials.
 - d) Board staff shall review application documents of all independent colleges for compliance with the application and eligibility requirements. The Board may request additional documentation and/or a meeting between its staff and institutional representatives to resolve questions about application documents. In the event that material submitted by an applicant institution is incomplete or not of sufficient detail to provide an understanding of the proposed projects, the Board will request additional information.
 - e) After the review is complete, the Board shall provide written notification to an applicant indicating whether the application is in compliance.

**Section 1039.60 Grant Agreement
EMERGENCY**

- a) Grant funds may not be expended except pursuant to a written grant agreement, and disbursement of grant funds without a grant agreement is prohibited. At a minimum, a grant agreement must:

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- 1) Describe the purpose of the grant and be signed by an authorized representative of the Board and the independent college;
- 2) Specify how payments shall be made, what constitutes permissible expenditure of the grant funds, and the financial controls applicable to the grant, including an agreement to file annual reports describing the progress of the capital projects and the expenditure of the grant funds related thereto;
- 3) Specify that grant funds may be used to reimburse the grantee for funds from other sources that have already been expended on the eligible project initiated after July 13, 2009;
- 4) Specify that grant funds may be used to pay for the audits required in Section 1039.40(f) and this subsection (a)(9);
- 5) Specify the period of time for which the grant is valid and the period of time during which grant funds may be expended by the grantee;
- 6) Contain a provision that all funds remaining at the end of the grant agreement, or at the expiration of the period of time grant funds are available for expenditure or obligation by the grantee, shall be returned to the State within 45 days;
- 7) Contain a provision that any grantees receiving grant funds are required to permit the Board, the Auditor General or the Attorney General to inspect and audit any books, records or papers related to the capital projects for which grant funds were provided;
- 8) Contain a provision in which the grantee certifies under oath that all information in the grant agreement is true and correct to the best of the grantee's knowledge, information and belief; that the funds shall be used only for the purposes described in the grant agreement; and that the award of grant funds is conditioned upon such certification;
- 9) Provide that the institution shall contract with an external auditor who is registered as a public accountant by DFPR to conduct an audit of the expenditure of grant funds provided under this program at the end of the grant period to verify that grant funds were expended pursuant to the grant

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agreement and not for sectarian purposes or other unauthorized purposes (the audit may be conducted earlier when all funds are expended prior to the end of the grant period).

- b) The Board may withhold or suspend the distribution of grant funds for failure to file required annual reports.

Section 1039.70 Distribution Formula**EMERGENCY**

- a) *The distribution of grants shall be determined by a formula which has two components: a base grant and an FTE grant. [30 ILCS 769/25-10]* To ensure an equitable and fair distribution of funds, the credit hours are reported by the institution and verified by an external auditor.
- b) Base Grants
 - 1) Each grantee will receive a base grant determined by its fall 2008 FTE, using the following ranges:
 - A) Between 1 and 200 FTE, \$200,000;
 - B) Between 201 and 500 FTE, \$1,000,000;
 - C) Between 501 and 4,000 FTE, \$2,000,000; and
 - D) Greater than 4,000 FTE, \$5,000,000.
 - 2) If for any reason the amount of funds available for release is not sufficient to distribute the base grant amounts, the Board shall distribute a prorated share with an explanation.
- c) FTE Grants. The remainder of moneys will be distributed on a pro rata share of fall 2008 FTE to the independent colleges as FTE grants.
- d) Failure to Use. *If any independent college does not utilize its full award or a portion thereof after 5 years, the remaining funds shall be re-distributed to the remaining independent colleges with capital projects on a pro rata FTE basis. [30 ILCS 769/25-10]*

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**Section 1039.80 Accessing Awards
EMERGENCY**

- a) *Each independent college shall have up to 5 years from the date of appropriation to access and utilize its awarded amounts.*
- b) After the grant agreement is certified by both parties, the grantee will be eligible to access awards.
- c) The ability of a grantee to access the grant awards at any point during the five year grant period is contingent upon the amount of funding available.

**Section 1039.90 Audit Guidelines
EMERGENCY**

- a) To fulfill the audit requirements of this Part, the grantees shall contract with an external auditor who is registered as a public accountant by DFPR to perform audits as specified in subsections (b) and (c).
- b) To fulfill the audit requirements in Section 1039.40(f) for the fall 2008 FTE, the external auditor shall:
 - 1) Receive a copy of the institution's certified hours and a copy of this Part;
 - 2) Perform tests to determine whether the institution has administrative control structures to provide reasonable assurance that the hours claimed is accurate;
 - 3) Perform tests of institutional records to assure that the hours reported is true, accurate and meets the requirements of Section 1039.40; and
 - 4) Provide an audit report to the Board including a description of the tests performed and the audit findings.
- c) To fulfill the audit requirements in Section 1039.60(a)(9) for the grant program, the external auditor shall:

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- 1) Receive copies of the institution's application, a certified grant agreement and a copy of this Part;
 - 2) Verify the expenditure of funds as provided for in this Part, and shall ensure that funds were expended on projects listed in the grant agreement;
 - 3) Verify that grant funds were not used for sectarian facilities; and
 - 4) Provide an audit report to the Board including a description of the tests performed and the audit findings.
- d) In the event that an audit or other evidence establishes that an overpayment was made in a grant to an institution, a reimbursement to the Board shall be required. Reimbursements made by an institution to the Board shall be available for re-distribution to the other grantees. A reimbursement is required in the following situations:
- 1) The fall 2008 credit hours were over-reported;
 - 2) Grant funds not expended within the grant period; or
 - 3) Grant funds expended for purposes not authorized under the grant agreement.
- e) In the event that no audits are submitted, an institution shall reimburse the State for the total amount of the grant.

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- 1) Heading of the Part: Illinois Energy Conservation Code
- 2) Code Citation: 71 Ill. Adm. Code 600
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
600.100	Amended
600.110	Amended
600.210	Amended
600.300	Amended
600.320	Amended
600.340	Amended
600.400	New
600.410	New
600.420	New
600.430	New
600.440	New
- 4) Statutory Authority: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and the Energy Efficient Building Act [20 ILCS 3125]
- 5) Effective Date of Rulemaking: January 29, 2010
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rulemaking has no earlier expiration date specified.
- 7) Date filed with the Index Department: January 29, 2010
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the CDB's principal office and is available for public inspection.
- 9) Reason for Emergency: Legislation passed in 2009 (HB 3987, PA 96-778) made the Illinois Energy Conservation Code applicable to certain residential structures. In February 2009, the American Recovery and Reinvestment Act of 2009 (ARRA) was signed into Public Law 111-5; Section 410 [Page 123 STAT.147]. Emergency rulemaking will make residential energy conservation work implemented by private or public entities more susceptible to possible ARRA funding.

The State, or the applicable units of local government that have authority to adopt building codes, will implement the following:

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(A) A building energy code (or codes) for residential buildings that meets or exceeds the most recently published International Energy Conservation Code, or achieves equivalent or greater energy savings.

(B) A building energy code (or codes) for commercial buildings throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1-2007, or achieves equivalent or greater energy savings.”

Additional information from DOE's website on the ARRA requirements:

(C) A plan for the jurisdiction achieving compliance with the building energy code or codes described in subparagraphs (A) and (B) within 8 years of the date of enactment of this Act in at least 90 percent of new and renovated residential and commercial building space. Such plan shall include active training and enforcement programs and measurement of the rate of compliance each year.

Achieving 90% compliance in 8 years requires prompt state code adoption. While ARRA, out of respect for the variations in State and local adoption procedures, includes no specific date by which states must adopt compliant building energy codes, the legislation does specify that State plans for demonstrating 90% compliance with the codes should be designed to achieve that compliance level within 8 years from passage of ARRA, i.e., 2017. In order to ensure compliance with the law, it is in the State's best interest to begin the process of adopting target codes (or better) as soon as possible. The measurement of compliance "each year" means states will need to begin assessing their rate of compliance with the target codes in February 2010.

- 10) A complete Description of the Subjects and Issues Involved: Legislation passed in 2009 (HB 3987, PA 96-778) amends the Energy Efficient Commercial Building Act requiring residential buildings to conform with the energy efficiency standards that currently apply only to commercial buildings. The name of the Act is changed to the Energy Efficient Building (EEB) Act and is revised throughout the rules. The definition of residential buildings was revised and new sections, 600.400 through 600.440, lay out the standards, exemptions, local jurisdiction, compliance and application to home rule units for residential buildings.

Revisions were made to Section 600.110 to update the language regarding the application of the code to additions, alterations, renovations or repairs and exceptions.

Section 600.210 was revised to update the name of the Energy Code Council.

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Additional language from the Act was added for clarification to Section 600.320 regarding the local jurisdictions responsibilities for adoption, enforcement and administration of the Code.

- 11) Are there any rulemakings pending in this Part? No
- 12) Statement of Statewide Policy Objectives: This rulemaking and the Act prevent a local governmental unit from adopting a residential energy efficient code or standards that are more or less stringent than the Code with some exceptions as provided under this Act.
- 13) Information and questions regarding these amendments shall be directed to:

Lisa Mattingly, Administrator of Professional Services
Capital Development Board
401 S. Spring Street
3rd Floor William G. Stratton Bldg.
Springfield, IL 62706

217/524-6408

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER I: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER d: ENERGY CODES

PART 600
ILLINOIS ENERGY CONSERVATION CODE

SUBPART A: GENERAL

Section

- 600.100 Definitions
EMERGENCY
- 600.110 Adoption and Modification of the Code
EMERGENCY
- 600.120 Illinois Energy Conservation Advisory Council
- 600.130 Revisions to the Code

SUBPART B: STATE FUNDED FACILITIES

Section

- 600.200 Standards for State Funded Facilities
- 600.210 Request for Variance
EMERGENCY
- 600.220 Compliance

SUBPART C: PRIVATELY FUNDED COMMERCIAL FACILITIES

Section

- 600.300 Standards for Privately Funded Commercial Facilities
EMERGENCY
- 600.310 Exemptions
- 600.320 Local Jurisdiction
EMERGENCY
- 600.330 Compliance
- 600.340 Application to Home Rule Units
EMERGENCY

SUBPART D: RESIDENTIAL BUILDINGS

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Section600.400 Standards for Residential BuildingsEMERGENCY600.410 ExemptionsEMERGENCY600.420 Local JurisdictionEMERGENCY600.430 ComplianceEMERGENCY600.440 Application to Home Rule UnitsEMERGENCY

AUTHORITY: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and the Energy Efficient Building Act [20 ILCS 3125].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 11355, effective July 26, 2004, for a maximum of 150 days; emergency rules expired December 22, 2004; adopted at 29 Ill. Reg. 777, effective January 1, 2005; new Part adopted by emergency rulemaking at 29 Ill. Reg. 5736, effective April 8, 2005, for a maximum of 150 days; emergency expired September 4, 2005; emergency rulemaking repealed at 29 Ill. Reg. 6093, effective April 18, 2005, for a maximum of 150 days; emergency expired September 14, 2005; old Part repealed at 29 Ill. Reg. 16414 and new Part adopted at 29 Ill. Reg. 14790, effective April 8, 2006; amended at 31 Ill. Reg. 14422, effective October 9, 2007; emergency amendment at 33 Ill. Reg. 12407, effective August 18, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 16702, effective November 23, 2009; emergency amendment at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days.

SUBPART A: GENERAL

Section 600.100 Definitions**EMERGENCY**

Definitions of terms in the International Energy Conservation Code, incorporated by reference in Subpart C of this Part, apply, as do the following definitions:

"Act" means the Capital Development Board Act [20 ILCS 3105].

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"Authority Having Jurisdiction" or "AHJ" means the organization, office or individual responsible for approving equipment, materials, an installation or procedure.

"CDB" means the Illinois Capital Development Board.

"Commercial Facility" means any building except a building that is classified as a residential building. [20 ILCS 3125/10]

"Council" means the Illinois Energy Conservation Advisory Council appointed under Subpart B of this Part.

"~~EEBEECB~~ Act" means the Energy Efficient ~~Commercial~~ Building Act [20 ILCS 3125].

"Professional Services Agreement" means the contract for services entered into by CDB and design professionals.

"Using Agency" means the State agency using facilities described in Section 4.01 of the Act.

"Illinois Energy Conservation Code" or "Code" means:

With respect to the State facilities covered by Subpart B:

This Part, all additional requirements incorporated within Subpart B (including ASHRAE 90.1 Standards), and any statutorily authorized adaptations to the incorporated standards adopted by CDB; ~~and~~

With respect to the privately funded commercial facilities covered by Subpart C:

This Part, all additional requirements incorporated within Subpart C (including the 2009 International Energy Conservation Code, excluding published supplements, which encompasses ASHRAE 90.1), and any statutorily authorized adaptations to the incorporated standards adopted by CDB; ~~and~~

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With respect to the residential buildings covered by Subpart D:

This Part, all additional requirements incorporated within Subpart D (including the 2009 International Energy Conservation Code, excluding published supplements) and any statutorily authorized adaptations to the incorporated standards adopted by CDB.

"IECC" means the International Energy Conservation Code.

"Municipality" means any city, village or incorporated town. [20 ILCS 3125/10]

"Residential Building" means a detached one-family or 2-family dwelling or any building that is 3 stories or less in height above grade that contains multiple dwelling units, in which the occupants reside on a primarily permanent basis, such as a townhouse, a row house, an apartment house, a convent, a monastery, a rectory, a fraternity or sorority house, a dormitory, and a rooming house; provided, however, that when applied to a building located within the boundaries of a municipality having a population of 1,000,000 or more, the term "residential building" means a building containing one or more dwelling units, not exceeding 4 stories above grade, where occupants are primarily permanent. [20 ILCS 3125/10]

~~*"Residential Building" means a detached one family or 2 family dwelling or any building three stories or less above grade level that contains multiple dwelling units, in which the occupants reside on a primarily permanent basis (i.e., townhouse, row house, apartment house, convent, monastery, rectory, fraternity or sorority house, dormitory or rooming house). [20 ILCS 3125/10]*~~

"State Funded Building" means and includes buildings under the jurisdiction of each officer, department, board, commission, institution and body politic and corporate of the State, including the Illinois Building Authority, school districts, and any other person expending or encumbering State or federal funds by virtue of an appropriation or other authorization by the General Assembly or federal authorization or grant. This includes State funded *housing, hospitals, penitentiaries, laboratories, educational facilities, administrative facilities, recreational facilities, environmental equipment and parking facilities* [20 ILCS 3105/4.01].

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(Source: Amended by emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days)

Section 600.110 Adoption and Modification of the Code
EMERGENCY

- a) The purpose of the Illinois Energy Conservation Code is to implement Section 10.09-5 of the Capital Development Board Act [20 ILCS 3105/10.09-5], which requires CDB to adopt rules implementing a statewide Energy Code. Additionally, Section 15 of the Energy Efficient Commercial Building Act [20 ILCS 3125/15] requires CDB to officially adopt, as a minimum requirement, the 2009 International Energy Conservation Code, excluding any published supplements, to apply that Code to all commercial structures in Illinois, and to assist local code officials with enforcing the requirements of the Code.
- b) This Code as described in Subpart B (State facilities) is effective July 26, 2004. This Code as described in Subpart C (privately-funded commercial facilities) is effective April 8, 2007. The Code as described in Subpart D (residential buildings) is effective January 9, 2010.
- c) Application of the Code
 - 1) State Facilities. The Code as described in Subpart B of this Part applies to all State facilities for which money has been appropriated or authorized by the General Assembly.
 - 2) Privately Funded Commercial Facilities and Residential Buildings. The Code as described in ~~Subparts~~ Subpart C and D of this Part applies *to any ~~new commercial~~ building or structure in this State for which a building permit application is received by a municipality or county. ~~In the case of any addition, alteration, renovation or repair to any existing commercial structure, the Code applies only to the portions of that structure that are being added, altered, renovated or repaired.~~* [20 ILCS 3125/20]
 - A) *Additions, alterations, renovations or repairs to an existing building, building system or portion thereof shall conform to the provisions of the Code as they relate to new construction without requiring the unaltered portion of the existing building or building system to comply with the Code.* [20 ILCS 3125/20(c)]

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B) All exceptions listed in the Code related to additions, alterations, renovations or repairs to an existing building are acceptable provided the energy use of the building is not increased.

- d) This Code, together with the standards incorporated by reference in this Part, has the force of a building code and is administrative law applicable in the State of Illinois.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days)

SUBPART B: STATE FUNDED FACILITIES

Section 600.210 Request for Variance**EMERGENCY**

- a) Who May File a Request for Variance
- 1) Any architect or engineer under contract with CDB to provide professional services for the proposed project.
 - 2) The using agency's chief executive officer or his or her designated representative.
 - 3) The Chairman of the IllinoisCDB Energy ConservationCode Advisory Council.
- b) Consideration of Request for Variance
A variance from any requirement of the Code as described in this Subpart will be granted by CDB for one or more of the following reasons only:
- 1) Compliance would not be technically feasible.
 - 2) Compliance would compromise the health, welfare or safety of building occupants.
 - 3) Compliance would prevent the building from serving its intended purpose.

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- 4) Compliance would violate another State or federal law or code.
 - 5) Compliance would increase the energy consumption of the building.
 - 6) Compliance would require the use of inferior products or materials.
- c) Submitting the Request for Variance
- 1) The request shall be submitted to the CDB Project Manager.
 - 2) Requests should be submitted as early in the project as there is cause, but no later than 75 days prior to the anticipated bid date. Approval or denial of a variance shall be no cause for delay in the project unless the request for variance was filed by CDB or the using agency for which the project is being constructed.
 - 3) The following shall be submitted when requesting a variance:
 - A) A letter from the petitioner stating the specific provisions of the Code from which the variance is requested and a detailed explanation of how compliance with the Code would result in one or more of the conditions described in subsection (b).
 - B) The request shall include supporting data, calculations, analysis, etc.
- d) CDB Action
- 1) Upon receipt of the Request for Variance, the CDB Project Manager will review the request and make a recommendation to CDB's Professional Services Unit within 7 calendar days.
 - 2) Professional Services Unit will evaluate the Request for Variance within 30 days after CDB's receipt of the Request and make a determination.
 - 3) If it is determined that the Request for Variance would cause one of the conditions stated in subsection (b), the variance shall be approved by CDB.

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- 4) If it is determined that the Request for Variance would not cause one of the conditions stated in subsection (b), the Agency may:
 - A) Deny the Request for Variance.
 - B) Approve the Request for Variance subject to specific conditions determined by CDB.
- e) **Modifications and Revisions**
The petitioner may, in writing, request that the original Request for Variance be modified and resubmit the Request for Variance.
- f) **Revocation**
CDB may revoke any variance if:
 - 1) it is determined that the variance was obtained through fraud or deceit;
 - 2) the petitioner has violated the specific conditions on which the variance was approved; or
 - 3) the variance was issued in error.
- g) **Appeals**
 - 1) Any person whose Request for Variance is denied or approved with conditions may appeal CDB's initial determination. The appeal shall be submitted in writing and must be received within 10 days after the initial CDB action is received by the requestor. The request shall be submitted to the Chairman of the Advisory Council.
 - 2) The Chairman of the Advisory Council will review the request with the Advisory Council, as deemed necessary by the Chairman, within 14 days after receipt and take one of the following actions:
 - A) Uphold CDB's initial determination.
 - B) Reverse CDB's initial determination and issue the variance.
 - C) Change the conditions applied to the variance granted by CDB.

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(Source: Amended by emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days)

SUBPART C: PRIVATELY FUNDED COMMERCIAL FACILITIES

Section 600.300 Standards for Privately Funded Commercial Facilities**EMERGENCY**

- a) The 2009 International Energy Conservation Code (IECC), excluding published supplements, available from the International Code Council at 500 New Jersey Avenue NW, 6th Floor, Washington DC 20001, phone: 1-888-ICC-SAFE (422-7233), is hereby incorporated into the Illinois Energy Conservation Code, as described in this Subpart as applicable to privately funded commercial facilities, with the modifications outlined in subsection (c).
- b) All incorporations by reference in this Section are of the cited standards as they existed on the date specified. These incorporations include no later editions or amendments.
- c) Modifications to IECC
Under Section 15 of the ~~EEBEECB~~ Act, when applying the Code to privately funded commercial facilities, CDB may modify the incorporated standards to respond to the unique economy, population distribution, geography and climate of Illinois, as long as the objectives of the Act are maintained pursuant to that statutory authority.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days)

Section 600.320 Local Jurisdiction**EMERGENCY**

- a) Construction projects involving privately funded commercial facilities and for which a municipality or county requires a building permit must comply with the Illinois Energy Conservation Code if the project involves new construction, addition, alteration, renovation or repair. *In the case of any addition, alteration, renovation or repair to an existing commercial structure, the Code as described*

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by this Subpart C *applies only to the portions of that structure that are being added, altered, renovated or repaired.* [20 ILCS 3125/20(a)]

- b) The local authority having jurisdiction (AHJ) shall establish its own procedures for enforcement of the Illinois Energy Conservation Code. The AHJ is authorized to enforce a building code that differs with the Code as described in this Subpart C, but any standards applied by an AHJ must be at least as stringent as the Code as described in this Subpart C.
- c) A unit of local government that does not regulate energy efficient building standards is not required to adopt, enforce or administer the Code; however, any energy efficient building standards adopted by a unit of local government must comply with the Act. If a unit of local government does not regulate energy efficient building standards, any construction, renovation or addition to buildings or structures is subject to the provisions contained in the Act.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days)

Section 600.340 Application to Home Rule Units**EMERGENCY**

No unit of local government, including any home rule unit, may apply energy efficient building standards to privately funded commercial facilities in a manner that is less stringent than the Code as described in this Subpart C. However, nothing in the ~~EEBEECB~~ Act or this Subpart prevents a unit of local government from adopting an energy efficiency code or standards that are more stringent than this Code. [20 ILCS 3125/45]

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days)

SUBPART D: RESIDENTIAL BUILDINGS**Section 600.400 Standards for Residential Buildings****EMERGENCY**

- a) The 2009 International Energy Conservation Code (IECC), excluding published supplements, available from the International Code Council at 500 New Jersey Avenue NW, 6th Floor, Washington DC 20001, phone: 1-888-ICC-SAFE (422-

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7233), is hereby incorporated into the Illinois Energy Conservation Code, as described in this Subpart as applicable to residential buildings, with the modifications outlined in subsection (c).

- b) All incorporations by reference in this Section are of the cited standards as they existed on the date specified. These incorporations include no later editions or amendments.
- c) Modifications to IECC
Under Section 15 of the EEB Act, when applying the Code to residential buildings, CDB may modify the incorporated standards to respond to the unique economy, population distribution, geography and climate of Illinois, as long as the objectives of the Act are maintained pursuant to that statutory authority.

(Source: Added by emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days)

Section 600.410 Exemptions
EMERGENCY

- a) The following buildings are exempt from the Code:
- 1) Buildings otherwise exempt from the provisions of a locally adopted building code and buildings that do not contain a conditioned space;
 - 2) Buildings that do not use either electricity or fossil fuel for comfort conditioning;
 - 3) Historic buildings listed on the National Register of Historic Places or the Illinois Register of Historic Places, and those buildings that are designated by authorized personnel as historically significant;
 - 4) Other buildings specified as exempt by the IECC. [20 ILCS 3125/20]
- b) For the purposes of determining whether an exemption authorized under subsection (a)(2) applies, a building will be presumed to be heated by electricity, even in the absence of equipment used for electric comfort heating, whenever the building is provided with electrical service in excess of 100 amps, unless the code

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enforcement official determines that this electrical service is necessary for purposes other than providing electric comfort heating. [20 ILCS 3125/20(b)(2)]

(Source: Added by emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days)

Section 600.420 Local Jurisdiction
EMERGENCY

- a) Construction projects involving residential buildings and for which a municipality or county requires a building permit must comply with the Illinois Energy Conservation Code if the project involves new construction, addition, alteration, renovation or repair. In the case of any addition, alteration, renovation or repair to an existing commercial structure, the Code as described by this Subpart D applies only to the portions of that structure that are being added, altered, renovated or repaired. [20 ILCS 3125/20(a)]
- b) The local authority having jurisdiction (AHJ) shall establish its own procedures for enforcement of the Illinois Energy Conservation Code.
- c) No unit of local government, including any home rule unit, may regulate energy efficient building standards for residential buildings in a manner that is either less or more stringent than the standards established pursuant to this Subpart D.
 - 1) However, the following entities may regulate energy efficient building standards for residential buildings in a manner that is more stringent than the provisions contained in this Subpart D:
 - i) a unit of local government, including a home rule unit, that has, on or before May 15, 2009, adopted or incorporated by reference energy efficient building standards for residential buildings that are equivalent to or more stringent than the 2006 International Energy Conservation Code;
 - ii) a unit of local government, including a home rule unit, that has, on or before May 15, 2009, provided to the Capital Development Board, as required by Section 55 of the Illinois Building Commission Act, an identification of an energy efficient building

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code or amendment that is equivalent to or more stringent than the 2006 International Energy Conservation Code; and

iii) a municipality with a population of 1,000,000 or more.

- 2) No unit of local government, including any home rule unit or unit of local government that is subject to State regulation under the Code as provided in 20 ILCS 3125/15 may enact any annexation ordinance or resolution, or require or enter into any annexation agreement, that imposes energy efficient building standards for residential buildings that are either less or more stringent than the energy efficiency standards in effect, at the time of construction, throughout the unit of local government.

(Source: Added by emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days)

Section 600.430 Compliance
EMERGENCY

- a) Compliance with the Illinois Energy Conservation Code as described by this Subpart D (applicable to residential buildings) shall be determined by the local authority having jurisdiction (AHJ).
- b) Minimum compliance shall be demonstrated by submission of:
- 1) Compliance Certificates generated by the U.S. Department of Energy's REScheck code compliance tool; or
 - 2) Other comparable compliance materials that meet or exceed, as determined by the authority having jurisdiction, U.S. Department of Energy's REScheck code compliance tool; or
 - 3) The seal of the architect/engineer as required by Section 14 of the Illinois Architecture Practice Act [225 ILCS 305], Section 12 of the Structural Engineering Licensing Act [225 ILCS 340] and Section 14 of the Illinois Professional Engineering Practice Act [225 ILCS 325].

(Source: Added by emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days)

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Section 600.440 Application to Home Rule Units
EMERGENCY

No unit of local government, including any home rule unit, may regulate energy efficient building standards for residential buildings in a manner that is less or more stringent than the standards established in this Subpart D. [20 ILCS 3125/45(a)]

(Source: Added by emergency rulemaking at 34 Ill. Reg. 2582, effective January 29, 2010, for a maximum of 150 days)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Forestry Development Cost-Share Program
- 2) Code Citation: 17 Ill. Adm. Code 1536
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1536.10	Amendment
1536.20	Amendment
1536.25	Amendment
1536.30	Amendment
1536.40	Amendment
1536.50	Repealed
1536.51	New Section
1536.55	New Section
1536.60	Amendment
1536.65	Amendment
1536.70	Amendment
1536.75	New Section
1536.77	New Section
1536.80	Amendment
1536.90	Amendment
1536.100	Amendment
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: February 13, 2009; 33 Ill. Reg. 3064
- 5) Reason for the withdrawal: During First Notice, numerous comments were received from the public requesting further amendments to this Part. Department staff reviewed these comments and determined that significant additional amendments should be made to the rulemaking before it is adopted. Rather than proceeding to Second Notice, staff determined the rulemaking should be withdrawn and new proposed amendments incorporating the public's concerns should be drafted and filed on First Notice.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Forest Management Plan
- 2) Code Citation: 17 Ill. Adm. Code 1537
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1537.1	Amendment
1537.2	Amendment
1537.5	Amendment
1537.6	New Section
1537.10	Amendment
1537.15	Amendment
1537.17	New Section
1537.18	New Section
1537.20	Amendment
1537.21	New Section
1537.24	New Section
1537.25	Repealed
1537.30	Amendment
1537.40	Repealed
1537.42	Amendment
1537.45	Amendment
1537.47	New Section
1537.50	Amendment
1537.55	Amendment
1537.57	New Section
1537.58	New Section
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1537.71	New Section
1537.72	New Section
1537.75	Amendment
1537.80	Amendment
1537.85	Amendment
1537.90	Amendment
1537.EXHIBIT A	Amendment
1537.EXHIBIT B	Amendment

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 4) Date Notice of Proposed Amendments Published in the Illinois Register: February 13, 2009; 33 Ill. Reg. 3096
- 5) Reason for the withdrawal: During First Notice, numerous comments were received from the public requesting further amendments to this Part. Department staff reviewed these comments and determined that significant additional amendments should be made to the rulemaking before it is adopted. Rather than proceeding to Second Notice, staff determined the rulemaking should be withdrawn and new proposed amendments incorporating the public's concerns should be drafted and filed on First Notice.

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 26, 2010 through February 1, 2010 and have been scheduled for review by the Committee at its March 9, 2010 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
3/11/10	<u>State Board of Elections</u> , Procedures for Ranked Balloting (26 Ill. Adm. Code 217)	10/2/09 33 Ill. Reg. 13794	3/9/10
3/11/10	<u>Department of Natural Resources</u> , The Taking of Wild Turkeys – Spring Season (17 Ill. Adm. Code 710)	12/4/09 33 Ill. Reg. 16645	3/9/10
3/14/09	<u>Department of Public Health</u> , Home Health, Home Services, and Home Nursing Agency Code (77 Ill. Adm. Code 245)	6/19/09 33 Ill. Reg. 8072	3/9/10

ILLINOIS ADMINISTRATIVE CODE
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