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OF GOVERNMENTAL
AGENCIES

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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2011

Issue #	Rules Due Date	Date of Issue
1	December 20, 2010	January 3, 2011
2	December 27, 2010	January 7, 2011
3	January 3, 2011	January 14, 2011
4	January 10, 2011	January 21, 2011
5	January 18, 2011	January 28, 2011
6	January 24, 2011	February 4, 2011
7	January 31, 2011	February 14, 2011
8	February 7, 2011	February 18, 2011
9	February 15, 2011	February 25, 2011
10	February 22, 2011	March 4, 2011
11	February 28, 2011	March 11, 2011
12	March 7, 2011	March 18, 2011
13	March 14, 2011	March 25, 2011
14	March 21, 2011	April 1, 2011
15	March 28, 2011	April 8, 2011
16	April 4, 2011	April 15, 2011
17	April 11, 2011	April 22, 2011
18	April 18, 2011	April 29, 2011
19	April 25, 2011	May 6, 2011
20	May 2, 2011	May 13, 2011
21	May 9, 2011	May 20, 2011

22	May 16, 2011	May 27, 2011
23	May 23, 2011	June 3, 2011
24	May 31, 2011	June 10, 2011
25	June 6, 2011	June 17, 2011
26	June 13, 2011	June 24, 2011
27	June 20, 2011	July 1, 2011
28	June 27, 2011	July 8, 2011
29	July 5, 2011	July 15, 2011
30	July 11, 2011	July 22, 2011
31	July 18, 2011	July 29, 2011
32	July 25, 2011	August 5, 2011
33	August 1, 2011	August 12, 2011
34	August 8, 2011	August 19, 2011
35	August 15, 2011	August 26, 2011
36	August 22, 2011	September 2, 2011
37	August 29, 2011	September 9, 2011
38	September 6, 2011	September 16, 2011
39	September 12, 2011	September 23, 2011
40	September 19, 2011	September 30, 2011
41	September 26, 2011	October 7, 2011
42	October 3, 2011	October 14, 2011
43	October 11, 2011	October 21, 2011
44	October 17, 2011	October 28, 2011
45	October 24, 2011	November 4, 2011
46	October 31, 2011	November 14, 2011
47	November 7, 2011	November 18, 2011
48	November 14, 2011	November 28, 2011
49	November 21, 2011	December 2, 2011
50	November 28, 2011	December 9, 2011
51	December 5, 2011	December 16, 2011
52	December 12, 2011	December 27, 2011
53	December 19, 2011	December 30, 2011

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 17, 2011 to January 3, 2012.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

1) Heading of the Part: Americans With Disabilities Act Grievance Procedure

2) Code Citation: 4 Ill. Adm. Code 425

3)

Section Numbers:	Proposed Action:
425.10	New
425.20	New
425.30	New
425.40	New
425.50	New
425.60	New
425.70	New

4) Statutory Authority: 42 USC 12101; 20 ILCS 505/4

5) A complete description of the subjects and issues involved: This Part is being proposed to implement procedures to resolve grievances filed by qualified individuals with disabilities. The rule will bring the Department into compliance with provisions of the Americans with Disabilities Act (ADA).

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

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

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

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

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

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

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

C) Types of professional skills necessary for compliance: None

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

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER XIV: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

PART 425
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section

425.10 Purposes
425.20 Definitions
425.30 Procedure
425.40 Designated Coordinator Level
425.50 Final Level
425.60 Accessibility
425.70 Case-By-Case Resolution

AUTHORITY: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and authorized by Section 4 of the Children and Family Services Act [20 ILCS 505/4].

SOURCE: Adopted at 35 Ill. Reg. _____, effective _____.

Section 425.10 Purposes

a) This grievance procedure is established pursuant to the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) (ADA) and specifically Section 35.107 of the Title II regulations (28 CFR 35) requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. Should any individual desire to review the ADA or its regulations to understand the rights, privileges and remedies afforded by it, please contact the Designated Coordinator:

Debra Dyer
1921 South Indiana
Chicago IL 60616
312/808-5000
debra.dyer@illinois.gov

b) In general, the ADA requires that each program, service and activity offered by the Department of Children and Family Services, when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.

c) It is the intention of the Department to foster open communication with all individuals requesting readily accessible programs, services and activities. The Department encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

Section 425.20 Definitions

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

"Complainant" is an individual with a disability who files a Grievance Form provided by the Department under this procedure.

"Department" means the Department of Children and Family Services.

"Designated Coordinator" is the person appointed by the Department who is responsible for the coordination of efforts of the Department to comply with and carry out its responsibilities under Title II of the ADA, including investigation of grievances filed by complainants. (See 28 CFR 35.107.)

"Director" means the Director of the Department of Children and Family Services.

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

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

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

"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 Department.

Section 425.30 Procedure

a) Grievances must be submitted in accordance with procedures established in Sections 425.40 and 425.50. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this Part are in calendar days, unless otherwise stated, and may be extended by mutual agreement, in writing, by the complainant and the reviewer, at the Designated Coordinator and/or the Final Levels described in Section 425.50.

b) A complainant's failure to submit a grievance, or to submit or appeal it to the next level of procedure within the specified time limits, shall mean that the complainant has withdrawn the grievance or has accepted the last response from the Department given during the grievance procedure.

c) The Department shall, upon being informed of an individual's desire to file a formal grievance, instruct the individual how to receive a copy of this Part and the Grievance Form.

Section 425.40 Designated Coordinator Level

a) If an individual desires to file a grievance, the individual shall promptly, but no later than 180 days after the alleged discrimination, submit the grievance to the Designated Coordinator in writing on the Grievance Form prescribed for that purpose. The Grievance Form must be completed in full in order to receive proper consideration by the Designated Coordinator.

b) Upon request, assistance in completing the Grievance Form shall be provided by the Department.

c) The Designated 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 Designated Coordinator shall provide a written response to the complainant and Director within 15 business days after receipt of the Grievance

Form.

Section 425.50 Final Level

a) If the grievance is not resolved at the Designated Coordinator Level to the satisfaction of the complainant, the complainant may submit a copy of the Grievance Form and Designated Coordinator's response to the Director for final review. The complainant shall submit these documents to the Director, together with a short written statement explaining the reasons for dissatisfaction with the Designated Coordinator's written response, within 15 business days after receipt by the complainant of the Designated Coordinator's response.

b) Within 15 business days, the Director shall appoint a three-member panel to review the grievance at the Final Level. One member shall be designated chair. The panel shall schedule a review of the grievance, which shall commence no later than 15 business days after the last member of the panel is appointed.

c) Complainant shall be afforded an opportunity to appear before the panel. Complainant shall have a right to appoint a representative to appear on his or her behalf. The panel shall review the Designated Coordinator's written response and may conduct interviews and seek advice as it deems appropriate.

d) 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 recommendations in writing to the Director as to the proper resolution of the grievance. All recommendations shall include reasons for those recommendations and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a recommendation to the Director in writing and shall sign the recommendation.

e) Within 15 business days after receipt of recommendations from a panel, the Director or designee shall approve, disapprove or modify the panel recommendations; shall render a decision on those recommendations in writing; shall state the basis for his or decision; and shall cause a copy of the decision to be served on the parties. The Director's decision shall be final. If the Director disapproves or modifies the panel's recommendations, the Director may include written reasons for that disapproval or modification.

f) The Grievance Form, the Designated Coordinator's response, the statement of the

reasons for dissatisfaction, the recommendations of the panel, and the decision of the Director shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

Section 425.60 Accessibility

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

Section 425.70 Case-By-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the Department. 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.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Administration of Psychotropic Medications to Children for Whom the Department of Children and Family Services Is Legally Responsible

2) Code Citation: 89 Ill. Adm. Code 325

3)

Section Numbers:	Proposed Action:
325.10	Amend
325.20	Amend
325.30	Amend
325.40	Amend
325.50	Amend
325.60	Amend
325.70	Amend
325.80	New

4) Statutory Authority: Administration of Psychotropic Medications to Children Act [20 ILCS 535 (PA 97-245, effective August 4, 2011]

5) A Complete Description of the Subjects and Issues Involved: This Part contains standards and procedures governing the administration of psychotropic medications to children in DCFS custody or guardianship. The proposed amendments:

- Add and amend several definitions;
- Require DCFS and private agency investigators/caseworkers to identify potential medical and mental health issues when children enter the system. If the child is taking psychotropic medication, the investigator/caseworker shall ensure appropriate consent is provided to continue administration of that medication;
- Require DCFS to publish *Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care* and *DCFS Psychotropic Medications List* on its website and on the websites of DCFS psychiatric consultants. These publications shall be provided to all authorized agents and to substitute care agencies and hospitals that accept DCFS wards for placement or treatment;
- Require licensed prescribers to use a Psychotropic Medications Request Form provided by DCFS when requesting consent to prescribe psychotropic medications;
- Describe the use and approval process for one-time non-emergency medication;
- Require DCFS to designate an Oversight Treatment Team to conduct reviews of psychotropic medication use by DCFS wards in specified circumstances;
- Designate staff of the Centralized Consent Unit and Emergency Reception Center as the only DCFS staff that may consent to administration of psychotropic medications for DCFS wards, and require initial and periodic training for these staff;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- Require facilities and prescribers to monitor a child's response to medications;
- Require Administrative Case Reviewers, at 6 month case reviews, to ask whether a ward is taking psychotropic medication, ensure that appropriate consent for medication was obtained, and to report deviations in practice to the DCFS guardian and appropriate management staff;
- Require that residential facilities licensed by DCFS have a written policy for the safe and accurate administration of medication to all children in the facility;
- Require DCFS to offer training for residential facilities, hospitals, foster parents and relative caregivers concerning the requirements of this Part;
- Specify the steps to be taken by DCFS to enforce violations of this Part; and
- Require the DCFS Guardian to notify the *guardian ad litem* (GAL) of a ward who has been administered a psychotropic medication in violation of this Part where the GAL has requested notification and provides DCFS with an appropriate order from the court granting the GAL authority to receive and review this information.

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? Yes

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: The proposed rulemaking tightens DCFS consent and monitoring requirements for administration of psychotropic medications to children and limits consent authority to specified staff.

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

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Telephone: 217/524-1983
TTY: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile: 217/557-0692

13) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking does not affect small businesses.

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 implements the Administration of Psychotropic Medications to Children Act (P.A. 97-245, effective August 4, 2011, and, as a result, was not listed by DCFS for the Regulatory Agenda.

The full text of the Proposed Amendments is identical to the Emergency Amendments on page 16877.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Procedures For Collection of Air Pollution Site Fees

2) Code Citation: 35 Ill. Adm. Code 251

3)

Section Numbers:	Proposed Action:
251.103	Amended
251.201	Amended

4) Statutory Authority: Implementing and authorized by Section 9.6 of the Illinois Environmental Protection Act. [415 ILCS 5/9.6]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking will amend the regulation to allow greater fees and to exclude greenhouse gas emissions from the fee structure (sources do not have to pay fees for greenhouse gas emissions).

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: These rules establish procedures for collecting air pollution site fees.

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

Charles E. Matoesian
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19726

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Springfield, Illinois 62794-9276

217/782-5544
charles.matoesian@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking is may impact small businesses and not for profits if they have emission permits. Such sources would have to pay higher fees.

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 2011

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 251
PROCEDURES FOR COLLECTION OF AIR POLLUTION SITE FEES

SUBPART A: INTRODUCTION

Section
251.101 Purpose
251.103 Definitions

SUBPART B: PROCEDURES FOR BILLING AND COLLECTION OF AIR POLLUTION SITE FEES

Section
251.201 Amount of Air Pollution Site Fee
251.202 Withdrawal of Permits
251.203 Agency Billing Procedures
251.208 Time and Method of Payment
251.210 Form of Payment
251.212 Return of Site Fee (Repealed)
251.215 Prohibition Against Refund

SUBPART C: RESOLUTION OF DISPUTES

Section
251.301 Request for Reconsideration
251.305 Effect of Request for Reconsideration
251.308 Agency Response
251.310 Appeal of Final Agency Action

AUTHORITY: Implementing and authorized by Section 9.6 of the Environmental Protection Act [415 ILCS 9.6.].

SOURCE: Adopted at 10 Ill. Reg. 19968, effective November 14, 1986; emergency amendments at 13 Ill. Reg. 955, effective January 1, 1989 for a maximum of 150 days; amended at 13 Ill. Reg. 8867, effective May 30, 1989; amended at 22 Ill. Reg. 6652, effective March 31,

1998; amended at 28 Ill. Reg. 1370, effective January 7, 2004; amended at 34 Ill. Reg. 19007, effective November 22, 2010; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 251.103 Definitions

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

"Agency": The Environmental Protection Agency established by the Act.

"Annual": Of the period of one year commencing on the original billing date of a particular air pollution site fee.

"Annual Fee": The air pollution site fee prescribed by Section 9.6 of the Act and collected by the Agency pursuant to this Part.

"Greenhouse Gas" or "GHG" means the air pollutant defined in 40 CFR 86.1818-12(a) as the aggregate group of 6 greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride.

"Permitted to Emit": The sum of allowable emissions of regulated pollutants at a site from all emission sources which have received an operating permit from the Agency's Bureau of Air.

"Regulated Air Pollutant": Any contaminant which is emitted to the atmosphere and which is regulated under the Act or the regulations of the Illinois Pollution Control Board and receives an air pollution operating permit after January 1, 1986.

"Site": Any location, place, tract of land, and facilities, including but not limited to, buildings and improvements used for purposes subject to regulation or control by the Environmental Protection Act or regulations thereunder.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART B: PROCEDURES FOR BILLING AND COLLECTION OF AIR POLLUTION SITE FEES

Section 251.201 Amount of Air Pollution Site Fee

a) Except as provided in Section 39.5 of the Act, an annual air pollution site fee shall be paid by the owner or operator of an air pollution site, in accordance with the requirements of this Part, in the amounts set forth below:

1) For any site permitted to emit less than 25 tons per year of any combination of regulated air pollutants except greenhouse gases, the annual site fee shall be $200, increasing, beginning January 1, 2012, to $235 per year for lifetime operating permits and $235 per year for federally enforceable State operating permits.

2) For any site permitted to emit at least 25 tons per year but less than 100 tons per year of any combination of regulated air pollutants, except greenhouse gases, the annual site fee shall be $1,800 and increases, beginning January 1, 2012, to $2,150 per year.

3) For any site permitted to emit at least 100 tons per year but not more than 191~~194~~ tons per year of any combination of regulated air pollutants, except greenhouse gases, the annual site fee shall be $18.00 per ton, increasing January 1, 2012 to $21.50 per ton.

4) For any site permitted to emit more than 191~~194~~ tons per year of any combination of regulated air pollutants, except greenhouse gases, the annual site fee shall be $3,500, increasing to $4,112 beginning January 1, 2012.

5) The provisions of this Section shall not apply to a site permitted solely as a retail liquid dispensing facility that has air pollution control equipment.

b) The Agency shall annually assess the amount of the air pollution site fee due based upon its records of permitted sites and allowable emissions from those sites.

c) It shall be the obligation of the owner or operator to notify the Agency's Bureau of Air, in writing, of the cessation of or reduction in the operation at the site and to request revision or withdrawal of all appropriate operating permits. Notification and requests shall be sent to:

Illinois Environmental Protection Agency

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Bureau of Air, Permit Section
Attention: Records Unit
P.O. Box 19276
Springfield, Illinois 62794-9276

(Source: Amended at 35 Ill. Reg. _____, effective _____)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Annual Emissions Report

2) Code Citation: 35 Ill. Adm. Code 254

3) Section Number: 254.102 — Proposed Action: Amended

4) Statutory Authority: Implementing and authorized by Section 4(b) of the Illinois Environmental Protection Act [415 ILCS 5/4/(b)]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking will amend the regulations to declare that the type of Annual Emission Report an entity files will not be based upon the entity's greenhouse gas emissions. Instead, the criteria pollutant emissions will continue to control whether the entity files the long or short form.

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 amends the procedures for submitting annual emission reports.

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

Charles E. Matoesian
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

P.O. Box 19726
Springfield, Illinois 62794-9276

217/782-5544
charles.matoesian@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking is expected to impact small businesses and not for profit corporations to the extent they must file annual emission reports for pollutants. However, the Illinois EPA anticipates that these amendments will generally benefit such entities as the amendments clarify the reporting burden.

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 2011

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 254
ANNUAL EMISSIONS REPORT

SUBPART A: GENERAL PROVISIONS

Section
254.101 Purpose
254.102 Applicability
254.103 Definitions
254.104 Actual Emissions (Repealed)
254.105 Annual Process Rate (Repealed)
254.106 Certifying Individual (Repealed)
254.107 Emission Determination Method (Repealed)
254.108 Emissions Summary (Repealed)
254.109 Inventory Edit Summary (Repealed)
254.110 Peak Ozone Season (Repealed)
254.111 Source Inventory Report (Repealed)
254.112 Typical Ozone Season Day (Repealed)
254.120 Applicable Pollutants for Annual Emissions Reporting
254.130 Minimum Contents of Annual Emissions Report (Repealed)
254.131 Methods of Filing Annual Emissions Report (Repealed)
254.132 Failure to File a Complete Report
254.133 Voluntary Submittal of Data
254.134 Retention of Records
254.135 Reporting of Errors
254.136 Confidentiality and Trade Secret Protection
254.137 Reporting Schedule
254.138 Issuance of Source Inventory Report

SUBPART B: REPORTING REQUIREMENTS FOR LARGE SOURCES

Section
254.201 Annual Emissions Report (Repealed)
254.202 Reporting Schedule (Repealed)
254.203 Contents of Subpart B Annual Emissions Report
254.204 Complete Reports

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

SUBPART C: REPORTING REQUIREMENTS FOR OTHER SOURCES

Section
254.301 Annual Emissions Report (Repealed)
254.302 Reporting Schedule (Repealed)
254.303 Contents of Subpart C Annual Emissions Report
254.304 Transition to Full Reporting by Large Sources (Repealed)
254.305 Continuing Requirements for Other Sources (Repealed)
254.306 Complete Reports

SUBPART D: REPORTING REQUIREMENTS FOR SMALL SOURCES

Section
254.401 Annual Emissions Report (Repealed)
254.402 Reporting Schedule (Repealed)
254.403 Contents of Subpart D Annual Emissions Report (Repealed)
254.404 Complete Reports (Repealed)

SUBPART E: SEASONAL EMISSIONS REPORT UNDER ERMS

Section
254.501 Contents of a Seasonal Emissions Report

AUTHORITY: Authorized by Section 4(b) of the Environmental Protection Act [415 ILCS 5/4(b)].

SOURCE: Adopted at 17 Ill. Reg. 7782, effective May 14, 1993; amended at 25 Ill. Reg. 9856, effective July 17, 2001; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 254.102 Applicability

a) Subpart B of this Part applies to:

1) Owners or operators of any source required to have an operating permit in accordance with 35 Ill. Adm. Code 201 that is permitted to emit 25 tons per year or more of any combination of regulated air pollutants, excluding greenhouse gases;

2) Owners or operators of any source required to have an operating permit in accordance with Section 39.5 of the Environmental Protection Act [415 ILCS 5/39.5]; and

3) Owners or operators of sources in ozone nonattainment areas that have a potential to emit 25 tons per year or more of either VOM or NO_x from all emission units.

b) Subpart C of this Part applies to the owner or operator of any source of regulated air pollutants required to have an operating permit in accordance with 35 Ill. Adm. Code 201 that is not subject to subsection (a) of this Section.

c) The provisions of Subpart E of this Part apply to the owner or operator of any source that is subject to the seasonal reporting requirements for ERMS required by 35 Ill. Adm. Code 205.300, as specified under Section 254.501 of Subpart E.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Underground Storage Tanks

2) Code Citation: 35 Ill. Adm. Code 731

3) Section Number: 731.110 — Proposed Action: Amend

4) Statutory Authority: Implementing Sections 22.12 and 57 - 57.19 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/22.12, 27, 28, and 57 - 57.19]

5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency (IEPA) initiated this rulemaking by filing a proposal intended to update the Board's underground storage tank (UST) regulations to reflect the adoption of Public Act 96-908. Public Act 96-908 enacted a number of amendments to Title XVI of the Environmental Protection Act (Act), which addresses USTs.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: In the record of this rulemaking proceeding, IEPA stated that it "did not use a published study or research report in developing the proposed amendments" and therefore did not submit such material pursuant to the Board's procedural rules.

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 proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may download copies of the Board's opinion and order from the Board's Web site at www.ipcb.state.il.us and may also request copies by calling the Clerk's office at 312-814-3620.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should refer to Docket R11-22 and be addressed to:

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: this rulemaking may impact any small business, small municipality, or not-for-profit corporation that owns or operates a UST or performs activities associated with the remediation of leaking USTs.

B) Reporting, bookkeeping or other procedures required for compliance: the proposed amendment to Part 731 requires owners and operators subject to Title XVI of the Act to address releases according to Part 734, which now includes various reporting procedures.

C) Types of Professional skills necessary for compliance: no professional skills beyond those currently required by the existing UST regulations applicable to affected sources will be required for compliance with proposed amendments to Part 731.

14) Regulatory Agenda on which this rulemaking was summarized: January 2011

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND UNDERGROUND STORAGE TANK PROGRAMS

PART 731
UNDERGROUND STORAGE TANKS

SUBPART A: PROGRAM SCOPE AND INTERIM PROHIBITION

Section
731.101 Definitions and exemptions (Repealed)
731.102 Interim prohibitions (Repealed)
731.103 Notification Requirements (Repealed)
731.110 Applicability
731.111 Interim Prohibition for Deferred Systems (Repealed)
731.112 Definitions
731.113 Incorporations by Reference
731.114 Implementing Agency (Repealed)

SUBPART B: UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION AND NOTIFICATION

Section
731.120 Performance Standards for New Systems (Repealed)
731.121 Upgrading of Existing Systems (Repealed)
731.122 Notification Requirements

SUBPART C: GENERAL OPERATING REQUIREMENTS

Section
731.130 Spill and Overfill Control (Repealed)
731.131 Operation and Maintenance of Corrosion Protection
731.132 Compatibility (Repealed)
731.133 Repairs Allowed (Repealed)
731.134 Reporting and Recordkeeping (Repealed)

SUBPART D: RELEASE DETECTION

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section
731.140 General Requirements for all Systems (Repealed)
731.141 Petroleum Systems (Repealed)
731.142 Hazardous Substance Systems (Repealed)
731.143 Tanks (Repealed)
731.144 Piping (Repealed)
731.145 Recordkeeping (Repealed)

SUBPART E: RELEASE REPORTING, INVESTIGATION AND CONFIRMATION

Section
731.150 Reporting of Suspected Releases (Repealed)
731.151 Investigation due to Off-site Impacts (Repealed)
731.152 Release Investigation and Confirmation (Repealed)
731.153 Reporting and Cleanup of Spills and Overfills (Repealed)

SUBPART F: RELEASE RESPONSE AND CORRECTIVE ACTION

Section
731.160 General
731.161 Initial Response
731.162 Initial Abatement Measures and Site Check
731.163 Initial Site Characterization
731.164 Free Product Removal
731.165 Investigations for Soil and Groundwater Cleanup
731.166 Corrective Action Plan
731.167 Public Participation

SUBPART G: OUT-OF-SERVICE SYSTEMS AND CLOSURE

Section
731.170 Temporary Closure (Repealed)
731.171 Permanent Closure and Changes-in-Service (Repealed)
731.172 Assessing Site at Closure or Change-in-Service (Repealed)
731.173 Previously Closed Systems (Repealed)
731.174 Closure Records (Repealed)

SUBPART H: FINANCIAL RESPONSIBILITY

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section
731.190 Applicability (Repealed)
731.191 Compliance Dates (Repealed)
731.192 Definitions (Repealed)
731.193 Amount and Scope of Required Financial Responsibility (Repealed)
731.194 Allowable Mechanisms and Combinations (Repealed)
731.195 Financial Test of Self-insurance (Repealed)
731.196 Guarantee (Repealed)
731.197 Insurance or Risk Retention Group Coverage (Repealed)
731.198 Surety Bond (Repealed)
731.199 Letter of Credit (Repealed)
731.200 UST State Fund (Repealed)
731.202 Trust Fund (Repealed)
731.203 Standby Trust Fund (Repealed)
731.204 Substitution of Mechanisms (Repealed)
731.205 Cancellation or Nonrenewal by Provider (Repealed)
731.206 Reporting (Repealed)
731.207 Recordkeeping (Repealed)
731.208 Drawing on Financial Assurance (Repealed)
731.209 Release from Financial Assurance Requirement (Repealed)
731.210 Bankruptcy or other Incapacity (Repealed)
731.211 Replenishment (Repealed)
731.900 Incorporation by reference (Repealed)
731.901 Compliance Date (Repealed)

731.APPENDIX A Notification Form
731.APPENDIX C Statement for Shipping Tickets and Invoices

AUTHORITY: Implementing and authorized by Sections 22.4(d) and 27 of the Environmental Protection Act [415 ILCS 5/22.4(d) and 27].

SOURCE: Adopted in R86-1 at 10 Ill. Reg. 14175, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6220, effective March 24, 1987; amended in R88-27 at 13 Ill. Reg. 9519, effective June 12, 1989; amended in R89-4 at 13 Ill. Reg. 15010, effective September 12, 1989; amended in R89-10 at at 14 Ill. Reg. 5797, effective April 10, 1990; amended in R89-19 at 14 Ill. Reg. 9454, effective June 4, 1990; amended in R90-3 at 14 Ill. Reg. 11964, effective July 10, 1990; amended in R90-12 at 15 Ill. Reg. 6527, effective April 22, 1991; amended in R91-2 at 15

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Ill. Reg. 13800, effective September 10, 1991; amended in R91-14 at 16 Ill. Reg. 7407, effective April 24, 1992; amended in R11-22 at 35 Ill. Reg. _____, effective _____.

SUBPART A: PROGRAM SCOPE AND INTERIM PROHIBITION

Section 731.110 Applicability

a) This Part applies to owners and operators of an Underground Storage Tank (UST) system as defined in Section 731.112, except as otherwise provided in subsection~~subsections~~ (b) or (c).

b) The following UST systems are excluded from the requirements of this Part:

1) Any UST system holding hazardous waste or a mixture of such hazardous waste and other regulated substances.

2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 12(f) of the ~~Environmental Protection~~ Act ~~(Ill. Rev. Stat. 1989, ch. 111½, par. 1012(f))~~.

3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

4) Any UST system whose capacity is 110 gallons or less.

5) Any UST system that contains a de minimis concentration of regulated substances.

6) Any emergency spill or overflow containment UST system that is expeditiously emptied after used.

c) Deferrals.

1) Section 731.122 does not apply to any of the following types of UST systems:

A)~~1)~~ Wastewater treatment tank systems;

B)~~2)~~ Any UST systems containing radioactive materials that are

regulated by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954 (42 USC~~U.S.C.~~ 2011 et seq.);

C)~~3)~~ Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50, appendix~~Appendix~~ A, incorporated by reference in Section 731.113;

D)~~4)~~ Airport hydrant fuel distribution systems; and

E)~~5)~~ UST systems with field-constructed tanks.

2) Owners and operators subject to Title XVI of the Act are required to respond to releases in accordance with 35 Ill. Adm. Code 734 instead of Subpart F of this Part.

d)~~e)~~ Heating Oil~~oil~~ USTs~~.~~

1) Definitions. The following definitions apply to this subsection (d) only:

"Beneath the surface of the ground" is as defined in Section 731.112.

"Consumptive use" with respect to heating oil means consumed on the premises.

"Heating Oil" means petroleum that is No. 1, No. 2, No. 4 light, No. 4 heavy, No. 5 light, No. 5 heavy, or No. 6 technical grades of fuel oil; other residual fuel oils including navy special fuel oil and bunker c. (Section 22.18(e)(1)(H) of the Act)

"Heating Oil Underground Storage Tank" or "Heating Oil UST" means an underground storage tank serving other than farms or residential units that is used exclusively to store heating oil for consumptive use on the premises where stored. (Section 22.18(e)(1)(I) of the Act)

"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

"Pipe" or "piping" is as defined in Section 731.112.

"Regulated substance" is as defined in Section 731.112.

"Tank" is as defined in Section 731.112.

"Underground storage tank" or (("UST") is means any one or combination of tanks (including underground pipes connected thereto) thatwhich is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ten per centum or more beneath the surface of the ground.

2) SubsectionsSubsection (a) through (c) notwithstanding, *this Part applies to owners and operators of any heating oil UST.* (Section 22.4(d)(5) of the Act)

3) The owner or operator of a heating oil UST shall comply with the same requirements as the owner or operator of a "petroleum UST", as defined in Section 731.112, any other provisions of this Part notwithstanding.

BOARD NOTE: This subsection (d) implements Section 22.4(d)(4)(5) of the Act, which requires that this Part be applicable to "heating oil USTs", as that term is defined in Section 22.18(e) of the Act. However, that and related terms are used in a manner thatwhich is inconsistent with the definitions and usage in this Part. The definitions used in this applicability statement are therefore limited to this subsection (d).

BOARD NOTE: Owners and operators of heating oil USTs are subject to Title XVI of the Act and therefore are required to respond to releases in accordance with 35 Ill. Adm. Code 734 instead of Subpart F of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Petroleum Underground Storage Tanks (Releases Reported September 23, 1994 through June 23, 2002)

2) Code Citation: 35 Ill. Adm. Code 732

3)

Section Numbers:	Proposed Action:
732.100	Repeal
732.101	Repeal
732.102	Repeal
732.103	Repeal
732.104	Repeal
732.105	Repeal
732.106	Repeal
732.108	Repeal
732.110	Repeal
732.112	Repeal
732.114	Repeal
732.200	Repeal
732.201	Repeal
732.202	Repeal
732.203	Repeal
732.204	Repeal
732.300	Repeal
732.301	Repeal
732.302	Repeal
732.303	Repeal
732.304	Repeal
732.305	Repeal
732.306	Repeal
732.307	Repeal
732.308	Repeal
732.309	Repeal
732.310	Repeal
732.311	Repeal
732.312	Repeal
732.400	Repeal
732.401	Repeal
732.402	Repeal
732.403	Repeal

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

732.404	Repeal
732.405	Repeal
732.406	Repeal
732.407	Repeal
732.408	Repeal
732.409	Repeal
732-410	Repeal
732.411	Repeal
732.500	Repeal
732.501	Repeal
732.502	Repeal
732.503	Repeal
732.504	Repeal
732.505	Repeal
732.600	Repeal
732.601	Repeal
732.602	Repeal
732.603	Repeal
732.604	Repeal
732.605	Repeal
732.606	Repeal
732.607	Repeal
732.608	Repeal
732.609	Repeal
732.610	Repeal
732.611	Repeal
732.612	Repeal
732.614	Repeal
732.700	Repeal
732.701	Repeal
732.702	Repeal
732.703	Repeal
732.704	Repeal
732.800	Repeal
732.810	Repeal
732.815	Repeal
732.820	Repeal
732.825	Repeal
732.830	Repeal

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

732.835	Repeal
732.840	Repeal
732.845	Repeal
732.850	Repeal
732.855	Repeal
732.860	Repeal
732.865	Repeal
732.870	Repeal
732.875	Repeal
732.APPENDIX A	Repeal
732.APPENDIX B	Repeal
732.APPENDIX C	Repeal
732.APPENDIX D	Repeal
732.APPENDIX E	Repeal

4) Statutory Authority: Implementing Sections 22.12 and 57 - 57.19 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/22.12, 27, 28 and 57-57.19]

5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency (IEPA) initiated this rulemaking by filing a proposal intended to update the Board's underground storage tank (UST) regulations to reflect the adoption of Public Act 96-908. Public Act 96-908 enacted a number of amendments to Title XVI of the Environmental Protection Act (Act), which addresses USTs.

In the Statement of Reasons filed with its original rulemaking proposal, IEPA noted that Part 732 applies to UST releases reported on or after September 23, 1994, but prior to June 24, 2002. IEPA states that, with adoption of Public Act 96-908, all releases subject to Title XVI of the Act that are closed on or after June 8, 2010, are subject to Part 734 of the Board's UST rules. *See* 415 ILCS 5/57.13 (2010). IEPA argues that, because of this change, Part 732 is no longer necessary and should be repealed.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: In the record of this rulemaking proceeding, IEPA stated that it "did not use a published study or research report in developing the proposed amendments" and therefore did not submit such material pursuant to the Board's procedural rules.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

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

9) Does this rulemaking contain incorporations by reference? No

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

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

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may download copies of the Board's opinion and order from the Board's Web site at www.ipcb.state.il.us and may also request copies by calling the Clerk's office at 312-814-3620.

The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should refer to Docket R11-22 and be addressed to:

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: proposed repeal of Part 732 may impact any small business, small municipality, or not-for-profit corporation that owns or operates a UST or performs activities associated with the remediation of leaking USTs.

B) Reporting, bookkeeping or other procedures required for compliance: the proposed repealer would repeal Part 732 and would not themselves generate any reporting, bookkeeping, or other procedures for compliance.

C) Types of Professional skills necessary for compliance: the proposed repeal of Part 732 will itself require no professional skills beyond those currently required by existing UST regulations for compliance.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

14) Regulatory Agenda on which this rulemaking was summarized: January 2011

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL
AND UNDERGROUND STORAGE TANK PROGRAMS

PART 732
PETROLEUM UNDERGROUND STORAGE TANKS
(RELEASES REPORTED SEPTEMBER 23, 1994, THROUGH JUNE 23, 2002) (REPEALED)

SUBPART A: GENERAL

Section
732.100 Applicability
732.101 Election to Proceed under Part 732
732.102 Severability
732.103 Definitions
732.104 Incorporations by Reference
732.105 Agency Authority to Initiate Investigative, Preventive or Corrective Action
732.106 Laboratory Certification
732.108 Licensed Professional Engineer or Licensed Professional Geologist Supervision
732.110 Form and Delivery of Plans, Budget Plans, and Reports; Signatures and Certifications
732.112 Notification of Field Activities
732.114 LUST Advisory Committee

SUBPART B: EARLY ACTION

Section
732.200 General
732.201 Agency Authority to Initiate
732.202 Early Action
732.203 Free Product Removal
732.204 Application for Payment of Early Action Costs

SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section
732.300 General

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

732.301 Agency Authority to Initiate
732.302 No Further Action Sites
732.303 Low Priority Sites
732.304 High Priority Sites
732.305 Plan Submittal and Review
732.306 Deferred Site Classification; Priority List for Payment
732.307 Site Evaluation
732.308 Boring Logs and Sealing of Soil Borings and Groundwater Monitoring Wells
732.309 Site Classification Completion Report
732.310 Indicator Contaminants
732.311 Groundwater Remediation Objectives
732.312 Classification by Exposure Pathway Exclusion

SUBPART D: CORRECTIVE ACTION

Section
732.400 General
732.401 Agency Authority to Initiate
732.402 No Further Action Site
732.403 Low Priority Site
732.404 High Priority Site
732.405 Plan Submittal and Review
732.406 Deferred Corrective Action; Priority List for Payment
732.407 Alternative Technologies
732.408 Remediation Objectives
732.409 Groundwater Monitoring and Corrective Action Completion Reports
732.410 "No Further Remediation" Letter (Repealed)
732.411 Off-site Access

SUBPART E: REVIEW OF PLANS, BUDGET PLANS, AND REPORTS

Section
732.500 General
732.501 Submittal of Plans or Reports (Repealed)
732.502 Completeness Review (Repealed)
732.503 Review of Plans, Budget Plans, or Reports
732.504 Selection of Plans or Reports for Full Review (Repealed)
732.505 Standards for Review of Plans, Budget Plans, or Reports

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

SUBPART F: PAYMENT FROM THE FUND

Section
732.600 General
732.601 Applications for Payment
732.602 Review of Applications for Payment
732.603 Authorization for Payment; Priority List
732.604 Limitations on Total Payments
732.605 Eligible Corrective Action Costs
732.606 Ineligible Corrective Action Costs
732.607 Payment for Handling Charges
732.608 Apportionment of Costs
732.609 Subrogation of Rights
732.610 Indemnification
732.611 Costs Covered by Insurance, Agreement or Court Order
732.612 Determination and Collection of Excess Payments
732.614 Audits and Access to Records; Records Retention

SUBPART G: NO FURTHER REMEDIATION LETTERS
AND RECORDING REQUIREMENTS

Section
732.700 General
732.701 Issuance of a No Further Remediation Letter
732.702 Contents of a No Further Remediation Letter
732.703 Duty to Record a No Further Remediation Letter
732.704 Voidance of a No Further Remediation Letter

SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section
732.800 Applicability
732.810 UST Removal or Abandonment Costs
732.815 Free Product or Groundwater Removal and Disposal
732.820 Drilling, Well Installation, and Well Abandonment
732.825 Soil Removal and Disposal
732.830 Drum Disposal
732.835 Sample Handling and Analysis
732.840 Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures

732.845 Professional Consulting Services
732.850 Payment on Time and Materials Basis
732.855 Bidding
732.860 Unusual or Extraordinary Circumstances
732.865 Handling Charges
732.870 Increase in Maximum Payment Amounts
732.875 Agency Review of Payment Amounts

732.APPENDIX A Indicator Contaminants
732.APPENDIX B Additional Parameters
732.APPENDIX C Backfill Volumes
732.APPENDIX D Sample Handling and Analysis
732.APPENDIX E Personnel Titles and Rates
732.ILLUSTRATION A Equation for Groundwater Transport (Repealed)
732.ILLUSTRATION B Equation for Soil-Groundwater Relationship (Repealed)
732.ILLUSTRATION C Equation for Calculating Groundwater Objectives at the Source (Repealed)
732.ILLUSTRATION D Equation for Calculating Soil Objectives at the Source (Repealed)
732.TABLE A Groundwater and Soil Remediation Objectives (Repealed)
732.TABLE B Soil Remediation Methodology: Model Parameter Values (Repealed)
732.TABLE C Soil Remediation Methodology: Chemical Specific Parameters (Repealed)
732.TABLE D Soil Remediation Methodology: Objectives (Repealed)

AUTHORITY: Implementing Sections 22.12 and 57-57.17 and authorized by Section 57.14 of the Environmental Protection Act [415 ILCS 5/22.12, 57-57.17].

SOURCE: Adopted in R94-2 at 18 Ill. Reg. 15008, effective September 23, 1994; amended in R97-10 at 21 Ill. Reg. 3617, effective July 1, 1997; amended in R01-26 at 26 Ill. Reg. 7119, effective April 29, 2002; amended in R04-22/23 at 30 Ill. Reg. 4928, effective March 1, 2006; amended in R07-17 at 31 Ill. Reg. 16131, effective November 21, 2007; repealed at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 732.100 Applicability

a) This Part applies to owners or operators of any underground storage tank system

used to contain petroleum and for which a release was reported to Illinois Emergency Management Agency (IEMA) on or after September 23, 1994, but prior to June 24, 2002, in accordance with regulations adopted by the Office of the State Fire Marshal (OSFM). It also applies to owners or operators that, prior to June 24, 2002, elected to proceed in accordance with this Part pursuant to Section 732.101 of this Part. This Part does not apply to owners or operators of sites for which the OSFM does not require a report to IEMA or for which the OSFM has issued or intends to issue a certificate of removal or abandonment pursuant to Section 57.5 of the Act.

b) Upon the receipt of a corrective action order issued by the OSFM prior to June 24, 2002, and pursuant to Section 57.5(g) of the Act, where the OSFM has determined that a release poses a threat to human health or the environment, the owner or operator of any underground storage tank system used to contain petroleum and taken out of operation before January 2, 1974, or any underground storage tank system used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit shall conduct corrective action in accordance with this Part.

c) Owners or operators subject to this Part by law or by election shall proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the No Further Remediation Letter signifying final disposition of the site for purposes of this Part. The Agency may use its authority pursuant to the Act and Section 732.105 of this Part to expedite investigative, preventive or corrective action by an owner or operator or to initiate such action.

d) The following underground storage tank systems are excluded from the requirements of this Part:

1) Equipment or machinery that contains petroleum substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

2) Any underground storage tank system whose capacity is 110 gallons or less.

3) Any underground storage tank system that contains a de minimis concentration of petroleum substances.

4) Any emergency spill or overfill containment underground storage tank system that is expeditiously emptied after use.

5) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (33 USC 1251 *et seq.*).

6) Any UST system holding hazardous waste listed or identified under Subtitle C of the Solid Waste Disposal Act (42 USC 3251 *et seq.*) or a mixture of such hazardous waste or other regulated substances.

e) Owners or operators subject to this Part may, pursuant to 35 Ill. Adm. Code 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead of this Part.

Section 732.101 Election to Proceed under Part 732

a) Prior to June 24, 2002, owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to the proper State authority on or before September 12, 1993 were able to elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. The election became effective upon receipt by the Agency and shall not be withdrawn. However, an owner or operator that elected to proceed in accordance with this Part may, pursuant to 35 Ill. Adm. Code 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead of this Part.

b) Prior to June 24, 2002, except as provided in Section 732.100(b) of this Part, owners or operators of underground storage tanks (USTs) used exclusively to store heating oil for consumptive use on the premises where stored and that serve other than a farm or residential unit were able to elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. The election became effective upon receipt by the Agency and shall not be withdrawn. However, an owner or operator that elected to proceed in accordance with this Part may, pursuant to 35 Ill. Adm. Code 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead of this Part.

c) If the owner or operator elected to proceed pursuant to this Part, corrective action

costs incurred in connection with the release and prior to the notification of election shall be payable from the Fund in the same manner as was allowable under the law applicable to the owner or operator prior to the notification of election. Corrective action costs incurred after the notification of election shall be payable from the Fund in accordance with this Part. Corrective action costs incurred on or after the effective date of an election to proceed in accordance with 35 Ill. Adm. Code 734 shall be payable from the Fund in accordance with that Part.

Section 732.102 Severability

If any provision of this Part or its application to any person or under any circumstances is adjudged invalid, such adjudication shall not affect the validity of this Part as a whole or of any portion not adjudged invalid.

Section 732.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5].

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

"Agency" means the Illinois Environmental Protection Agency.

"Alternative Technology" means a process or technique, other than conventional technology, used to perform a corrective action with respect to soils contaminated by releases of petroleum from an underground storage tank.

"Board" means the Illinois Pollution Control Board.

"Bodily Injury" means bodily injury, sickness, or disease sustained by a person, including death at any time, resulting from a release of petroleum from an underground storage tank [415 ILCS 5/57.2].

"Class I Groundwater" *means groundwater that meets the Class I: potable resource groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act* [415 ILCS 5/57.2].

"Class III Groundwater" *means groundwater that meets the Class III: special resource groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act* [415 ILCS 5/57.2].

"Community water supply" *means a public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents* [415 ILCS 5/3.145].

"Confirmed Exceedence" means laboratory verification of an exceedence of the applicable remediation objectives.

"Confirmation of a Release" means the confirmation of a release of petroleum in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Confirmed Release" means a release of petroleum that has been confirmed in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Conventional Technology" means a process or technique to perform a corrective action by removal, transportation and disposal of soils contaminated by a release of petroleum from an underground storage tank in accordance with applicable laws and regulations, but without processing to remove petroleum from the soils.

"*Corrective action*" *means activities associated with compliance with the provisions of Sections 57.6 and 57.7* of the Act [415 ILCS 5/57.2].

"County Highway" means county highway as defined in the Illinois Highway Code [605 ILCS 5].

"District Road" means a district road as defined in the Illinois Highway Code [605 ILCS 5].

"Environmental Land Use Control" means Environmental Land Use Control as defined in 35 Ill. Adm. Code 742.200.

"Federal Landholding Entity" means that federal department, agency or instrumentality with the authority to occupy and control the day-to-day use, operation and management of Federally Owned Property.

"Federally Owned Property" means real property owned in fee simple by the United States on which an institutional control is or institutional controls are sought to be placed in accordance with this Part.

"Fill Material" *means non-native or disturbed materials used to bed and backfill around an underground storage tank* [415 ILCS 5/57.2].

"Financial Interest" means any ownership interest, legal or beneficial, or being in the relationship of director, officer, employee, or other active participant in the affairs of a party. Financial interest does not include ownership of publicly traded stock.

"Free Product" means a contaminant that is present as a non-aqueous phase liquid for chemicals whose melting point is less than 30°C (e.g., liquid not dissolved in water).

"Full Accounting" means a compilation of documentation to establish, substantiate and justify the nature and extent of the corrective action costs incurred by an owner or operator.

"Fund" *means the Underground Storage Tank Fund* [415 ILCS 5/57.2].

"GIS" means Geographic Information System.

"GPS" means Global Positioning System.

"Groundwater" *means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure* [415 ILCS 5/3.210].

"Half-day" means four hours, or a fraction thereof, of billable work time. Half-days must be based upon the total number of hours worked in one calendar day. The total number of half-days per calendar day may exceed two.

"Handling Charges" means administrative, insurance, and interest costs and a reasonable profit for procurement, oversight, and payment of subcontracts and field purchases.

"Heating Oil" *means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy or No. 6 technical grades of fuel oil; and other residual fuel oils including navy special fuel oil and bunker C.* [415 ILCS 5/57.2]

"Highway Authority" means the Illinois Department of Transportation *with respect to a State highway;* the Illinois State Toll Highway Authority with respect to a toll highway; *the county board with respect to a county highway or a county unit district road if a discretionary function is involved and the county superintendent of highways if a ministerial function is involved; the highway commissioner with respect to a township or district road not in a county or unit road district; or the corporate authorities of a municipality with respect to a municipal street* [605 ILCS 5/2-213].

"Highway Authority Agreement" means an agreement with a highway authority that meets the requirements of 35 Ill. Adm. Code 742.1020.

"IEMA" means the Illinois Emergency Management Agency.

"Indemnification" means indemnification of an owner or operator for the amount of judgment entered against the owner or operator in a court of law, for the amount of any final order or determination made against the owner or operator by any agency of State government or any subdivision thereof, or for the amount of any settlement entered into by the owner or operator, if the judgment, order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator [415 ILCS 5/57.2].

"Indicator Contaminants" means the indicator contaminants set forth in Section 732.310 of this Part.

"Institutional Control" means a legal mechanism for imposing a restriction on land use as described in 35 Ill. Adm. Code 742, Subpart J.

"Land Use Control Memorandum of Agreement" means an agreement entered into between one or more agencies of the United States and the Illinois Environmental Protection Agency that limits or places requirements upon the use of Federally Owned Property for the purpose of protecting human health or the environment, or that is used to perfect a No Further Remediation Letter that contains land use restrictions.

"Licensed Professional Engineer" *means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering* [415 ILCS 5/57.2].

"Licensed Professional Geologist" *means a person licensed under the laws of the State of Illinois to practice as a professional geologist* [415 ILCS 5/57.2].

"Man-made Pathway" means constructed routes that may allow for the transport of mobile petroleum free-liquid or petroleum-based vapors including, but not limited to, sewers, utility lines, utility vaults, building foundations, basements, crawl spaces, drainage ditches or previously excavated and filled areas.

"Monitoring Well" means a water well intended for the purpose of determining groundwater quality or quantity.

"Natural Pathway" means natural routes for the transport of mobile petroleum free-liquid or petroleum-based vapors including, but not limited to, soil, groundwater, sand seams and lenses, and gravel seams and lenses.

"Non-community Water Supply" *means a public water supply that is not a community water supply* [415 ILCS 5/3.145].

"Occurrence" *means an accident, including continuous or repeated exposure to conditions, that results in a sudden or nonsudden release from an underground storage tank* [415 ILCS 5/57.2].

"OSFM" means the Office of the State Fire Marshal.

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank. (Derived from 42 USC 6991) BOARD NOTE: A person who voluntarily undertakes action to remove an underground storage tank system from the ground shall not be deemed an "operator" merely by the undertaking of such action.

"Owner" means:

> In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground

storage tank used for the storage, use or dispensing of regulated substances;

In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such underground storage tank immediately before the discontinuation of its use; (Derived from 42 USC 6991)

Any person who has submitted to the Agency a written election to proceed under the underground storage tank program *and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "No Further Remediation Letter" by the Agency pursuant to* the underground storage tank program [415 ILCS 5/57.2].

"Perfect" or "Perfected" means recorded or filed for record so as to place the public on notice, or as otherwise provided in Section 732.703(c) and (d) of this Part.

"Person" means, for the purposes of interpreting the definitions of the terms "owner" or "operator," an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body and shall include the United States Government and each department, agency, and instrumentality of the United States. (Derived from 42 USC 6991)

"Petroleum" means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute). (Derived from 42 USC 6991)

"Physical Soil Classification" *means verification* of geological conditions consistent with regulations for identifying and protecting potable resource groundwater or verification *that subsurface strata are as generally mapped in the publication Illinois Geological Survey Circular (1984) entitled "Potential For Contamination Of Shallow Aquifers In Illinois," by Berg, Richard C., et al. Such classification may include review of soil borings, well logs, physical soil analysis, regional geologic maps, or other scientific publication.* [415 ILCS 5/57.2]

"Potable" *means generally fit for human consumption in accordance with accepted water supply principles and practices* [415 ILCS 5/3.340].

"Practical quantitation limit" or "PQL" means the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 732.104 of this Part. For filtered water samples, PQL also means the Method Detection Limit or Estimated Detection Limit in accordance with the applicable method revision in: "Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010; "Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA Publication No. EPA/600/R-94/111; "Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039; "Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129; or "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131, all of which are incorporated by reference at Section 732.104 of this Part.

"Property Damage" *means physical injury to, destruction of, or contamination of tangible property* owned by a person other than an owner or operator of the UST from which a release of petroleum has occurred and which tangible property is located off the site where the release occurred. Property damage includes *all resulting loss of use of that property; or loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a release of petroleum from an underground storage tank* [415 ILCS 5/57.2].

"Public Water Supply" *means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply"* [415 ILCS 5/3.365].

"Registration" means registration of an underground storage tank with the OSFM in accordance with Section 4 of the Gasoline Storage Act [430 ILCS 15/4].

"Regulated recharge area" *means a compact geographic area, as determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination* [415 ILCS 5/3.390].

"Regulated Substance" means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 USC Sec. 9601(14)) (but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (42 USC 6921 et seq.)), and petroleum. (Derived from 42 USC 6991)

"Release" *means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils* [415 ILCS 5/57.2].

"Residential Tank" means an underground storage tank located on property used primarily for dwelling purposes.

"Residential Unit" means a structure used primarily for dwelling purposes including multi-unit dwellings such as apartment buildings, condominiums, cooperatives or dormitories.

"Right-of-way" means *the land, or interest therein, acquired for or devoted to a highway* [605 ILCS 5/2-217].

"Setback Zone" *means a geographic area, designated pursuant to the Act or regulations* (see 35 Ill. Adm. Code, Subtitle F), *containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwater* [415 ILCS 5/3.450].

"Site" *means any single location, place, tract of land or parcel of property including contiguous property not separated by a public right-of-way* [415 ILCS 5/57.2].

"State Highway" means a State highway as defined in the Illinois Highway Code

[605 ILCS 5].

"Stratigraphic Unit" means a site-specific geologic unit of native deposited material and/or bedrock of varying thickness (e.g., sand, gravel, silt, clay, bedrock, etc.). A change in stratigraphic unit is recognized by a clearly distinct contrast in geologic material or a change in physical features within a zone of gradation. For the purposes of this Part, a change in stratigraphic unit is identified by one or a combination of differences in physical features such as texture, cementation, fabric, composition, density, and/or permeability of the native material and/or bedrock.

"Street" means a street as defined in the Illinois Highway Code [605 ILCS 5].

"Surface Body of Water" or "Surface Water Body" means a natural or man-made body of water on the ground surface including, but not limited to, lakes, ponds, reservoirs, retention ponds, rivers, streams, creeks and drainage ditches. Surface body of water does not include puddles or other accumulations of precipitation, run-off or groundwater in UST excavations.

"Tank Field" means all underground storage tanks at a site that reside within a circle with a 100 foot radius.

"Toll Highway" means a toll highway as defined in the Toll Highway Act [605 ILCS 10].

"Township Road" means a township road as defined in the Illinois Highway Code [605 ILCS 5].

"Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Such term does not include any of the following or any pipes connected thereto:

Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

Septic tank;

Pipeline facility (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671 et seq.), or the Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001 et seq.), or which is an intrastate pipeline facility regulated under State laws as provided in either of these provisions of law, and that is determined by the Secretary of Energy to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

Surface impoundment, pit, pond, or lagoon;

Storm water or waste water collection system;

Flow-through process tank;

Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated on or above the surface of the floor. (Derived from 42 USC 6991)

The term "underground storage tank" shall also mean an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit [415 ILCS 5/57.2].

"UST System" or "Tank System" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Wellhead Protection Area" means the wellhead protection area of a community water supply well as determined under the Agency's wellhead protection program pursuant to 42 USC 300h-7.

Section 732.104 Incorporations by Reference

a) The Board incorporates the following material by reference:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

ASTM. American Society for Testing and Materials, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959 (610) 832-9585

ASTM D 422-63, Standard Test Method for Particle-Size Analysis of Soils, approved November 21, 1963 (reapproved 1990).

ASTM D 1140-92, Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75 µm) Sieve, approved November 15, 1992.

ASTM D 2216-92, Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock, approved June 15, 1992.

ASTM D 4643-93, Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method, approved July 15, 1993.

ASTM D 2487-93, Standard Test Method for Classification of Soils for Engineering Purposes, approved September 15, 1993.

ASTM D 2488-93, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993.

ASTM D 5084-90, Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter, approved June 22, 1990.

ASTM D 4525-90, Standard Test Method for Permeability of Rocks by Flowing Air, approved May 25, 1990.

ASTM D 1587-83, Standard Practice for Thin-Walled Tube Sampling of Soils, approved August 17, 1983.

ISGS. Illinois State Geological Survey, 615 E. Peabody Drive, Champaign, IL 61820-6964 (217) 333-4747

Richard C. Berg, John P. Kempton, Keros Cartwright, "Potential for Contamination of Shallow Aquifers in Illinois" (1984), Circular No. 532.

NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703) 605-6000 or (800) 553-6847

"Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010 (June 1991);

"Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA Publication No. EPA/600/R-94/111 (May 1994);

"Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039 (December 1988) (revised July 1991);

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129 (August 1992);

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131 (August 1995);

"Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, Third Edition (September 1986), as amended by Updates I, IIA, III, and IIIA (Final Update IIIA dated April 1998), Doc. No. 955-001-00000-1.

b) This Section incorporates no later editions or amendments.

Section 732.105 Agency Authority to Initiate Investigative, Preventive or Corrective Action

a) *The Agency has the authority to do either of the following*:

1) *Provide notice to the owner or operator, or both, of an underground storage tank whenever there is a release or substantial threat of a release of petroleum from such tank. Such notice shall include the identified investigation or response action and an opportunity for the owner or operator, or both, to perform the response action.*

2) *Undertake investigative, preventive or corrective action whenever there is a release or a substantial threat of a release of petroleum from an underground storage tank.* (Section 57.12(c) of the Act)

b) *If notice has been provided under this Section, the Agency has the authority to require the owner or operator, or both, of an underground storage tank to undertake preventive or corrective action whenever there is a release or substantial threat of a release of petroleum from such tank.* (Section 57.12(d) of the Act)

Section 732.106 Laboratory Certification

All quantitative analyses of samples collected on or after January 1, 2003, and utilizing any of the approved test methods identified in 35 Ill. Adm. Code 186.180, shall be completed by an accredited laboratory in accordance with the requirements of 35 Ill. Adm. Code 186. A certification from the accredited laboratory stating that the samples were analyzed in accordance with the requirements of this Section shall be included with the sample results when they are submitted to the Agency. Quantitative analyses not utilizing an accredited laboratory in accordance with Part 186 shall be deemed invalid.

Section 732.108 Licensed Professional Engineer or Licensed Professional Geologist Supervision

All investigations, plans, budget plans, and reports conducted or prepared under this Part, excluding Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part, must be conducted or prepared under the supervision of a Licensed Professional Engineer or Licensed Professional Geologist. High Priority Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part must be prepared under the supervision of a Licensed Professional Engineer.

Section 732.110 Form and Delivery of Plans, Budget Plans, and Reports; Signatures and Certifications

a) All plans, budget plans, and reports must be submitted to the Agency on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format. At a minimum, all site maps submitted to the Agency must meet the following requirements:

1) The maps must be of sufficient detail and accuracy to show required information;

2) The maps must contain the map scale, an arrow indicating north orientation, and the date the map was created; and

3) The maps must show the following:

A) The property boundary lines of the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release;

B) The uses of the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release;

C) The locations of all current and former USTs at the site, and the contents of each UST; and

D) All structures, other improvements, and other features at the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release, including but not limited to buildings, pump islands, canopies, roadways and other paved areas, utilities, easements, rights-of-way, and actual or potential natural or man-made pathways.

b) All plans, budget plans, and reports must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt executed by Agency personnel acknowledging receipt of documents by hand delivery or messenger or from certified or registered mail.

c) All plans, budget plans, and reports must be signed by the owner or operator and list the owner's or operator's full name, address, and telephone number.

d) All plans, budget plans, and reports submitted pursuant to this Part, excluding Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part, must contain the following certification from a Licensed Professional Engineer or Licensed Professional Geologist. Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this

Part must contain the following certification from a Licensed Professional Engineer.

> I certify under penalty of law that all activities that are the subject of this plan, budget plan, or report were conducted under my supervision or were conducted under the supervision of another Licensed Professional Engineer or Licensed Professional Geologist and reviewed by me; that this plan, budget plan, or report and all attachments were prepared under my supervision; that, to the best of my knowledge and belief, the work described in the plan, budget plan, or report has been completed in accordance with the Environmental Protection Act [415 ILCS 5], 35 Ill. Adm. Code 732, and generally accepted standards and practices of my profession; and that the information presented is accurate and complete. I am aware there are significant penalties for submitting false statements or representations to the Agency, including but not limited to fines, imprisonment, or both as provided in Sections 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/44 and 57.17].

e) Except in the case of sites subject to Section 732.703(c) or (d) of this Part, reports documenting the completion of corrective action at a site must contain a form addressing site ownership. At a minimum, the form must identify the land use limitations proposed for the site, if land use limitations are proposed; the site's common address, legal description, and real estate tax/parcel index number; and the names and addresses of all title holders of record of the site or any portion of the site. The form must also contain the following certification, by original signature, of all title holders of record of the site or any portion of the site, or the agent(s) of such person(s):

> I hereby affirm that I have reviewed the attached report entitled _____ and dated _____, and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further affirm that I have no objection to the recording of a No Further Remediation Letter containing the terms and conditions identified in the report upon the property I own.

Section 732.112 Notification of Field Activities

The Agency may require owners and operators to notify the Agency of field activities prior to the date the field activities take place. The notice must include information prescribed by the

Agency, and may include, but is not limited to, a description of the field activities to be conducted, the person conducting the activities, and the date, time, and place the activities will be conducted. The Agency may, but is not required to, allow notification by telephone, facsimile, or electronic mail. This Section does not apply to activities conducted within 45 days plus 14 days after initial notification to IEMA of a release, or to free product removal activities conducted within 45 days plus 14 days after the confirmation of the presence of free product.

Section 732.114 LUST Advisory Committee

Once each calendar quarter the Agency must meet with a LUST Advisory Committee to discuss the Agency's implementation of this Part, provided that the Agency or members of the Committee raise one or more issues for discussion. The LUST Advisory Committee must consist of the following individuals: one member designated by the Illinois Petroleum Marketers Association, one member designated by the Illinois Petroleum Council, one member designated by the American Consulting Engineers Council of Illinois, one member designated by the Illinois Society of Professional Engineers, one member designated by the Illinois Chapter of the American Institute of Professional Geologists, two members designated by the Professionals of Illinois for the Protection of the Environment, one member designated by the Illinois Association of Environmental Laboratories, one member designated by the Illinois Environmental Regulatory Group, one member designated by the Office of the State Fire Marshal, and one member designated by the Illinois Department of Transportation. Members of the LUST Advisory Committee must serve without compensation.

SUBPART B: EARLY ACTION

Section 732.200 General

Owners and operators of underground storage tanks shall, in response to all confirmed releases of petroleum, *comply with all applicable statutory and regulatory reporting and response requirements.* [415 ILCS 5/57.6] No work plan or corresponding budget plan shall be required for conducting early action activities, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product.

Section 732.201 Agency Authority to Initiate

Pursuant to Sections 732.100 or 732.105 of this Part, the Agency shall have the authority to require or initiate early action activities in accordance with the remainder of this Subpart B.

Section 732.202 Early Action

a) Upon confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, the owner or operator, or both, shall perform the following initial response actions within 24 hours after the release:

1) Report the release to IEMA (e.g., by telephone or electronic mail);

2) Take immediate action to prevent any further release of the regulated substance to the environment; and

3) Identify and mitigate fire, explosion and vapor hazards.

b) Within 20 days after initial notification to IEMA of a release plus 14 days, the owner or operator shall perform the following initial abatement measures:

1) Remove as much of the petroleum from the UST system as is necessary to prevent further release into the environment;

2) Visually inspect any aboveground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils and groundwater;

3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);

4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner or operator shall comply with 35 Ill. Adm. Code 722, 724, 725, and 807 through 815;

5) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with regulations promulgated by the OSFM. In selecting sample types, sample locations, and measurement methods, the owner or operator shall consider the nature of the stored substance, the type of backfill, depth to groundwater and other factors as

appropriate for identifying the presence and source of the release; and

6) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with Section 732.203.

c) Within 20 days after initial notification to IEMA of a release plus 14 days, the owner or operator shall submit a report to the Agency summarizing the initial abatement steps taken under subsection (b) of this Section and any resulting information or data.

d) Within 45 days after initial notification to IEMA of a release plus 14 days, the owner or operator shall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in subsections (a) and (b) of this Section. This information shall include, but is not limited to, the following:

1) Data on the nature and estimated quantity of release;

2) Data from available sources or site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions and land use;

3) Results of the site check required at subsection (b)(5) of this Section; and

4) Results of the free product investigations required at subsection (b)(6) of this Section, to be used by owners or operators to determine whether free product must be recovered under Section 732.203 of this Part.

e) Within 45 days after initial notification to IEMA of a release plus 14 days, the owner or operator shall submit to the Agency the information collected in compliance with subsection (d) of this Section in a manner that demonstrates its applicability and technical adequacy. The information shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

f) *Notwithstanding any other corrective action taken, an owner or operator may, at*

a minimum, and prior to submission of any plans to the Agency, remove the tank system, or abandon the underground storage tank in place, in accordance with the regulations promulgated by the Office of the State Fire Marshal (see 41 Ill. Adm. Code 160, 170, 180, 200). *The owner may remove visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen. For purposes of payment for early action costs, however, fill material shall not be removed in an amount in excess of 4 feet from the outside dimensions of the tank.* Early action may also include disposal in accordance with applicable regulations or ex situ treatment of contaminated fill material removed from within 4 feet from the outside dimensions of the tank. [415 ILCS 5/57.6(b)]

g) For purposes of payment from the Fund, the activities set forth in subsection (f) of this Section shall be performed within 45 days after initial notification to IEMA of a release plus 14 days, unless special circumstances, approved by the Agency in writing, warrant continuing such activities beyond 45 days plus 14 days. The owner or operator shall notify the Agency in writing of such circumstances within 45 days after initial notification to IEMA of a release plus 14 days. Costs incurred beyond 45 days plus 14 days shall be eligible if the Agency determines that they are consistent with early action.
BOARD NOTE: Owners or operators seeking payment from the Fund are to first notify IEMA of a suspected release and then confirm the release within 14 days to IEMA pursuant to regulations promulgated by the OSFM. See 41 Ill. Adm. Code 170.560 and 170.580. The Board is setting the beginning of the payment period at subsection (g) to correspond to the notification and confirmation to IEMA.

h) The owner or operator shall determine whether the areas or locations of soil contamination exposed as a result of early action excavation (e.g., excavation boundaries, piping runs) or surrounding USTs that remain in place meet the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

1) At a minimum, for each UST that is removed, the owner or operator shall collect and analyze soil samples as follows. The Agency must allow an alternate location for, or excuse the collection of, one or more samples if sample collection in the following locations is made impracticable by site-specific circumstances.

A) One sample must be collected from each UST excavation wall. The samples must be collected from locations representative of soil

that is the most contaminated as a result of the release. If an area of contamination cannot be identified on a wall, the sample must be collected from the center of the wall length at a point located one-third of the distance from the excavation floor to the ground surface. For walls that exceed 20 feet in length, one sample must be collected for each 20 feet of wall length, or fraction thereof, and the samples must be evenly spaced along the length of the wall. For USTs abandoned in place, the samples must be collected via borings drilled as close as practicable to the UST backfill.

B) Two samples must be collected from the excavation floor below each UST with a volume of 1,000 gallons or more. One sample must be collected from the excavation floor below each UST with a volume of less than 1,000 gallons. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If areas of contamination cannot be identified, the samples must be collected from below each end of the UST if its volume is 1,000 gallons or more, and from below the center of the UST if its volume is less than 1,000 gallons.

C) One sample must be collected from the floor of each 20 feet of UST piping run excavation, or fraction thereof. The samples must be collected from a location representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a length of piping run excavation being sampled, the sample must be collected from the center of the length being sampled. For UST piping abandoned in place, the samples must be collected in accordance with subsection (h)(2)(B) of this Section.

D) If backfill is returned to the excavation, one representative sample of the backfill must be collected for each 100 cubic yards of backfill returned to the excavation.

E) The samples must be analyzed for the applicable indicator contaminants. In the case of a used oil UST, the sample that appears to be the most contaminated as a result of a release from the used oil UST must be analyzed in accordance with Section

732.310(g) of this Part to determine the indicator contaminants for used oil. The remaining samples collected pursuant to subsections (h)(1)(A) through (D) of this Section must then be analyzed for the applicable used oil indicator contaminants.

2) At a minimum, for each UST that remains in place, the owner or operator must collect and analyze soil samples as described in subsections (h)(2)(A) through (D). The Agency must allow an alternate location for, or excuse the drilling of, one or more borings if drilling in the following locations is made impracticable by site-specific circumstances.

A) One boring must be drilled at the center point along each side of each UST, or along each side of each cluster of multiple USTs, remaining in place. If a side exceeds 20 feet in length, one boring must be drilled for each 20 feet of side length, or fraction thereof, and the borings must be evenly spaced along the side. The borings must be drilled in the native soil surrounding the UST(s) and as close as practicable to, but not more than five feet from, the backfill material surrounding the UST(s). Each boring must be drilled to a depth of 30 feet below grade, or until groundwater or bedrock is encountered, whichever is less. Borings may be drilled below the groundwater table if site specific conditions warrant, but no more than 30 feet below grade.

B) Two borings, one on each side of the piping, must be drilled for every 20 feet of UST piping, or fraction thereof, that remains in place. The borings must be drilled as close practicable to, but not more than five feet from, the locations of suspected piping releases. If no release is suspected within a length of UST piping being sampled, the borings must be drilled in the center of the length being sampled. Each boring must be drilled to a depth of 15 feet below grade, or until groundwater or bedrock is encountered, whichever is less. Borings may be drilled below the groundwater table if site specific conditions warrant, but no more than 15 feet below grade. For UST piping that is removed, samples must be collected from the floor of the piping run in accordance with subsection (h)(1)(C) of this Section.

C) If auger refusal occurs during the drilling of a boring required under subsection (h)(2)(A) or (B) of this Section, the boring must be drilled in an alternate location that will allow the boring to be drilled to the required depth. The alternate location must not be more than five feet from the boring's original location. If auger refusal occurs during drilling of the boring in the alternate location, drilling of the boring must cease and the soil samples collected from the location in which the boring was drilled to the greatest depth must be analyzed for the applicable indicator contaminants.

D) One soil sample must be collected from each five-foot interval of each boring required under subsections (h)(2)(A) through (C) of this Section. Each sample must be collected from the location within the five-foot interval that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a five-foot interval, the sample must be collected from the center of the five-foot interval, provided, however, that soil samples must not be collected from soil below the groundwater table. All samples must be analyzed for the applicable indicator contaminants.

3) If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met, and if none of the criteria set forth in subsections (h)(4)(A) through (C) are met, within 30 days after the completion of early action activities, the owner or operator shall submit a report demonstrating compliance with those remediation objectives. The report must include, but is not limited to, the following:

A) A characterization of the site that demonstrates compliance with the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

B) Supporting documentation, including, but not limited to, the following:

i) A site map meeting the requirements of Section 732.110(a)(1) of this Part that shows the locations of all samples collected pursuant to this subsection (h);

ii) Analytical results, chain of custody forms, and laboratory certifications for all samples collected pursuant to this subsection (h); and

iii) A table comparing the analytical results of all samples collected pursuant to this subsection (h) to the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

C) A site map containing only the information required under Section 732.110(a)(1) of this Part.

4) If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have not been met, or if one or more of the following criteria are met, the owner or operator shall continue evaluation in accordance with Subpart C of this Part.

A) There is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants (e.g., as found during release confirmation or previous corrective action measures);

B) Free product that may impact groundwater is found to need recovery in compliance with Section 732.203 of this Part; or

C) There is evidence that contaminated soils may be or may have been in contact with groundwater, unless:

i) The owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping; and

ii) The Agency determines that further groundwater investigation is not necessary.

Section 732.203 Free Product Removal

a) Under any circumstance in which conditions at a site indicate the presence of free product, owners or operators shall remove, to the maximum extent practicable, free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water, while initiating or continuing any actions required pursuant to this Part or other applicable laws or regulations. In meeting the requirements of this Section, owners or operators shall:

1) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, State and federal regulations;

2) Use abatement of free product migration as a minimum objective for the design of the free product removal system;

3) Handle any flammable products in a safe and competent manner to prevent fires or explosions;

4) Within 45 days after the confirmation of presence of free product from a UST, prepare and submit to the Agency a free product removal report. The report shall, at a minimum, provide the following:

A) The name of the persons responsible for implementing the free product removal measures;

B) The estimated quantity, type and thickness of free product observed or measured in wells, boreholes and excavations;

C) The type of free product recovery system used;

D) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;

E) The type of treatment applied to, and the effluent quality expected from, any discharge;

F) The steps that have been or are being taken to obtain necessary permits for any discharge;

G) The disposition of the recovered free product;

H) The steps taken to identify the source and extent of the free product; and

I) A schedule of future activities necessary to complete the recovery of free product still exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or still present as a sheen on groundwater in the tank removal excavation or on surface water. The schedule must include, but not be limited to, the submission of plans and budgets required pursuant to subsections (c) and (d) of this Section; and

5) If free product removal activities are conducted more than 45 days after the confirmation of the presence of free product, submit free product removal reports in accordance with a schedule established by the Agency.

b) For purposes of payment from the Fund, owners or operators are not required to obtain Agency approval for free product removal activities conducted within 45 days after the confirmation of the presence of free product.

c) If free product removal activities will be conducted more than 45 days after the confirmation of the presence of free product, the owner or operator must submit to the Agency for review a free product removal plan. The plan must be submitted with the free product removal report required under subsection (a)(4) of this Section. Free product removal activities conducted more than 45 days after the confirmation of the presence of free product must not be considered early action activities.

d) Any owner or operator intending to seek payment from the Fund must, prior to conducting free product removal activities more than 45 days after the confirmation of the presence of free product, submit to the Agency a free product removal budget plan with the corresponding free product removal plan. The budget plan must include, but not be limited to, an estimate of all costs associated with the development, implementation, and completion of the free product removal plan, excluding handling charges. The budget plan should be consistent

with the eligible and ineligible costs listed in Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget plan the Agency may require a comparison between the costs of the proposed method of free product removal and other methods of free product removal.

e) Upon the Agency's approval of a free product removal plan, or as otherwise directed by the Agency, the owner or operator must proceed with free product removal in accordance with the plan.

f) Notwithstanding any requirement under this Part for the submission of a free product removal plan or free product removal budget plan, an owner or operator may proceed with free product removal in accordance with this Section prior to the submittal or approval of an otherwise required free product removal plan or budget plan. However, any such removal plan and budget plan must be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter.
BOARD NOTE: Owners or operators proceeding under subsection (f) of this Section are advised that they may not be entitled to full payment from the Fund. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

g) If, following approval of any free product removal plan or associated budget plan, an owner or operator determines that a revised removal plan or budget plan is necessary in order to complete free product removal, the owner or operator must submit, as applicable, an amended free product removal plan or associated budget plan to the Agency for review. The Agency must review and approve, reject, or require modification of the removal amended plan or budget plan in accordance with Subpart E of this Part.
BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all free product removal plans and associated budget plans submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

Section 732.204 Application for Payment of Early Action Costs

Owners or operators intending to seek payment for early action activities, excluding free product

removal activities conducted more than 45 days after confirmation of the presence of free product, are not required to submit a corresponding budget plan. The application for payment may be submitted to the Agency upon completion of the early action activities in accordance with the requirements at Subpart F of this Part, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product. Applications for payment of free product removal activities conducted more than 45 days after confirmation of the presence of free product may be submitted upon completion of the free product removal activities.

SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section 732.300 General

a) Except as provided in subsection (b) of this Section, or unless the owner or operator submits a report pursuant to Section 732.202(h)(3) of this Part demonstrating that the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met, the owner or operator of any site subject to this Part shall evaluate and classify the site in accordance with the requirements of this Subpart C. All such sites shall be classified as No Further Action, Low Priority or High Priority. Site classifications shall be based on the results of the site evaluation, including, but not limited to, the physical soil classification and the groundwater investigation, if applicable.

b) An owner or operator may choose to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part as an alternative to conducting site classification activities pursuant to this Subpart C provided that:

1) Upon completion of the remediation, the owner or operator shall submit a corrective action completion report demonstrating compliance with the required levels. The corrective action completion report must include, but not be limited to, a narrative and timetable describing the implementation and completion of all elements of the remediation and the procedures used for the collection and analysis of samples, soil boring logs, actual analytical results, laboratory certification, site maps, well logs, and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site.

A) Documentation of the water supply well survey conducted pursuant to subsection (b)(3) of this Section must include, but is not limited to, the following:

i) One or more maps, to an appropriate scale, showing the following: The location of the community water supply wells and other potable water supply wells identified pursuant to subsection (b)(3) of this Section, and the setback zone for each well; the location and extent of regulated recharge areas and wellhead protection areas identified pursuant to subsection (b)(3) of this Section; the current extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and the modeled extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

ii) One or more tables listing the setback zones for each community water supply well and other potable water supply wells identified pursuant to subsection (b)(3) of this Section;

iii) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells pursuant to subsection (b)(3) of this Section, the name and title of each person contacted at each entity, and field observations associated with the identification of potable water supply wells; and

iv) A certification from a Licensed Professional Engineer or Licensed Professional Geologist that the water supply well survey was conducted in accordance with the requirements of subsection (b)(3) of this Section and that the documentation submitted pursuant to subsection (b)(1)(A) of this Section includes the information obtained as a result of the survey.

B) The corrective action completion report must be accompanied by a certification from a Licensed Professional Engineer stating that the information presented in the applicable report is accurate and complete, that corrective action has been completed in accordance with the requirements of the Act and subsection (b) of this Section, and that no further remediation is required at the site.

2) Unless an evaluation pursuant to 35 Ill. Adm. Code 742 demonstrates that no groundwater investigation is necessary, the owner or operator must complete a groundwater investigation under the following circumstances:

A) If there is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants (e.g., as found during release confirmation or previous corrective action measures);

B) If free product that may impact groundwater is found to need recovery in compliance with Section 732.203 of this Part; or

C) If there is evidence that contaminated soils may be or may have been in contact with groundwater, except that, if the owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping, the owner or operator does not have to complete a groundwater investigation, unless the Agency's review reveals that further groundwater investigation is necessary.

3) As part of the remediation conducted under subsection (b) of this Section, owners and operators must conduct a water supply well survey in accordance with this subsection (b)(3).

A) At a minimum, the owner or operator must identify all potable water supply wells located at the site or within 200 feet of the site, all community water supply wells located at the site or within 2,500 feet of the site, and all regulated recharge areas and wellhead

protection areas in which the site is located. Actions taken to identify the wells must include, but is not limited to, the following:

i) Contacting the Agency's Division of Public Water Supplies to identify community water supply wells, regulated recharge areas, and wellhead protection areas;

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

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

B) In addition to the potable water supply wells identified pursuant to subsection (b)(3)(A) of this Section, the owner or operator must extend the water supply well survey if soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants extends beyond the site's property boundary, or, as part of remediation, the owner or operator leaves in place soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants and contamination exceeding such objectives is modeled to migrate beyond the site's property boundary. At a minimum, the extended water supply well survey must identify the following:

i) All potable water supply wells located within 200 feet, and all community water supply wells located within 2,500 feet, of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion

exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

ii) All regulated recharge areas and wellhead protection areas in which the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants is located.

C) The Agency may require additional investigation of potable water supply wells, regulated recharge areas, or wellhead protection areas if site-specific circumstances warrant. Such circumstances must include, but are not limited to, the existence of one or more parcels of property within 200 feet of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants where potable water is likely to be used, but that is not served by a public water supply or a well identified pursuant to subsections (b)(3)(A) or (b)(3)(b) of this Section. The additional investigation may include, but is not limited to, physical well surveys (e.g., interviewing property owners, investigating individual properties for wellheads, distributing door hangers or other material that requests information about the existence of potable wells on the property, etc.).

BOARD NOTE: Owners or operators proceeding under subsection (b) of this Section are advised that they are not entitled to payment from the Fund for costs incurred after completion of early action activities in accordance with Subpart B. See Subpart F of this Part.

c) For corrective action completion reports submitted pursuant to subsection (b) of this Section, the Agency shall issue a No Further Remediation Letter upon approval of the report by the Agency in accordance with Subpart E.

Section 732.301 Agency Authority to Initiate

Pursuant to Sections 732.100 or 732.105 of this Part, the Agency shall have the authority to

require or initiate corrective action activities in accordance with the remainder of this Subpart C.

Section 732.302 No Further Action Sites

a) Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as No Further Action if all of the following criteria are satisfied:

1) The physical soil classification procedure completed in accordance with Section 732.307 confirms either of the following:

A) "Berg Circular"

i) The site is located in an area designated D, E, F or G on the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and

ii) The site's actual physical soil conditions are verified as consistent with those designated D, E, F or G on the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois"; or

B) The site soil characteristics satisfy the criteria of Section 732.307(d)(3) of this Part;

2) The UST system is not within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;

3) After completion of early action measures in accordance with Subpart B of this Part, there is no evidence that, through natural pathways or man-made pathways, migration of petroleum or vapors threatens human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

4) There is no designated Class III special resource groundwater within 200 feet of the UST system; and

5) After completing early action measures in accordance with Subpart B of this Part, no surface bodies of water are adversely affected by the presence of a visible sheen or free product layer as a result of a release of petroleum.

b) Groundwater investigation shall be required to confirm that a site meets the criteria of a No Further Action site if the Agency has received information indicating that the groundwater is contaminated at levels in excess of the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants at the property boundary line or 200 feet from the UST system, whichever is less. In such cases, a groundwater investigation that meets the requirements of Section 732.307(j) shall be performed. If the investigation confirms there is an exceedence of the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants, the Agency may reclassify the site as High Priority.

Section 732.303 Low Priority Sites

Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as Low Priority if all of the following criteria are met:

a) The physical soil classification and groundwater investigation procedures confirm the following:

1) The most stringent Tier 1 groundwater remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have not been exceeded at the property boundary line or 200 feet from the UST system, whichever is less; and

2) "Berg Circular"

A) The site is located in an area designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and

B) The site's actual physical soil conditions are verified as consistent

with those designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois"; or

3) The site soil characteristics do not satisfy the criteria of Section 732.307(d)(3) of this Part;

b) The UST system is not within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;

c) After completing early action measures in accordance with Subpart B of this Part, there is no evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

d) There is no designated Class III special resource groundwater within 200 feet of the UST system; and

e) After completing early action measures in accordance with Subpart B of this Part, there are no surface bodies of water adversely affected by the presence of a visible sheen or free product layer as a result of the release of petroleum.

Section 732.304 High Priority Sites

Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as High Priority if any of the following are met:

a) The physical soil classification and groundwater investigation procedures confirm the following:

1) The most stringent Tier 1 groundwater remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been exceeded at the property boundary line or 200 feet from the UST system, whichever is less; and

2) "Berg Circular"

A) The site is located in an area designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and

B) The site's actual physical soil conditions are verified as consistent with those designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois"; or

3) The site soil characteristics do not satisfy the criteria of Section 732.307(d)(3) of this Part;

b) The UST system is within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;

c) After completing early action measures in accordance with Subpart B of this Part, there is evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

d) There is designated Class III special resource groundwater within 200 feet of the UST system; or

e) After completing early action measures in accordance with Subpart B of this Part, a surface body of water is adversely affected by the presence of a visible sheen or free product layer as a result of a release of petroleum.

Section 732.305 Plan Submittal and Review

a) Unless an owner or operator elects to classify a site under Section 732.312, prior to conducting any site evaluation activities, the owner or operator shall submit to the Agency a site classification plan, including but not limited to a physical soil classification and groundwater investigation plan, satisfying the minimum requirements for site evaluation activities as set forth in Section 732.307. The

plans shall be designed to collect data sufficient to determine the site classification in accordance with Section 732.302, 732.303 or 732.304 of this Part.

b) In addition to the plan required in subsection (a) of this Section and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency a site classification budget plan with the corresponding site classification plan. The budget plan shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and an estimate of all costs associated with the development, implementation and completion of the site evaluation activities required in Section 732.307, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part.

c) The Agency shall have the authority to review and approve, reject or require modification of any plan or budget plan submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

d) Notwithstanding subsections (a), (b), and (e) of this Section, an owner or operator may proceed to conduct site evaluation activities in accordance with this Subpart C prior to the submittal or approval of an otherwise required site classification plan or budget plan (including physical soil classification and groundwater investigation plans, costs associated with activities to date, and anticipated further costs). However, any such classification plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter.
BOARD NOTE: Owners or operators proceeding under subsection (d) of this Section are advised that they may not be entitled to full payment from the Fund. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

e) If, following the approval of any site classification plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended site classification plan or associated

budget plan for review by the Agency. The Agency shall have the authority to review and approve, reject, or require modifications of the amended classification plan or budget plan in accordance with the procedures contained in Subpart E of this Part.

BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all site classification plans and associated budget plans submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

Section 732.306 Deferred Site Classification; Priority List for Payment

a) An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the Fund may elect to defer site classification activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met.

1) Approvals of budget plans shall be pursuant to Agency review in accordance with Subpart E of this Part.

2) The Agency shall monitor the availability of funds and shall provide notice of insufficient funds to owners or operators in accordance with Section 732.503(g) of this Part.

3) Owners and operators must submit elections to defer site classification activities on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The forms must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

4) The Agency must review elections to defer site classification activities to determine whether the requirements of subsection (b) of this Section are met. The Agency must notify the owner or operator in writing of its final action on any such election. If the Agency fails to notify the owner or operator of its final action within 120 days after its receipt of the election, the owner or operator may deem the election rejected by operation of law.

A) The Agency must mail notices of final action on an election by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action must be deemed to have taken place on the post marked date that such notice is mailed.

B) Any action by the Agency to reject an election, or rejection of an election by the Agency's failure to act, is subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

5) Upon approval of an election to defer site classification until funds are available, the Agency shall place the site on a priority list for payment and notification of availability of sufficient funds. Sites shall enter the priority list for payment based solely on the date the Agency receives a complete written election of deferral, with the earliest dates having the highest priority.

6) As funds become available, the Agency shall encumber funds for each site in the order of priority in an amount equal to the total of the approved budget plan for which deferral was sought. The Agency shall then notify owners or operators that sufficient funds have been allocated for the owner or operator's site. After such notification the owner or operator shall commence site classification activities.

7) Authorization of payment of encumbered funds for deferred site classification activities shall be approved in accordance with the requirements of Subpart F of this Part.

8) The priority list for payment and notification of availability of sufficient funds shall be the same as that used for deferred corrective action pursuant to Section 732.406 with both types of deferrals entering the list and moving up solely on the basis of the date the Agency receives written notice of the deferral.

b) An owner or operator who elects to defer site classification activities under subsection (a) of this Section shall submit a report certified by a Licensed Professional Engineer or Licensed Professional Geologist demonstrating the following:

1) The Agency has approved the owner's or operator's site classification budget plan;

2) The owner or operator has been determined eligible to seek payment from the Fund;

3) The early action requirements of Subpart B of this Part have been met;

4) Groundwater contamination does not exceed Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants as a result of the release, modeling in accordance with 35 Ill. Adm. Code 742 shows that groundwater contamination will not exceed such Tier 1 remediation objectives as a result of the release, and no potable water supply wells are impacted as a result of the release; and

5) Soil contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants does not extend beyond the site's property boundary and is not located within a regulated recharge area, a wellhead protection area, or the setback zone of a potable water supply well. Documentation to demonstrate that this subsection (b)(5) is satisfied must include, but is not limited to, the results of a water supply well survey conducted in accordance with Section 732.307(f) of this Part.

c) An owner or operator may, at any time, withdraw the election to defer site classification activities. The owner or operator must notify the Agency in writing of the withdrawal. Upon such withdrawal, the owner or operator shall proceed with site classification in accordance with the requirements of this Part.

Section 732.307 Site Evaluation

a) Except as provided in Section 732.300(b), or unless an owner or operator submits a report pursuant to Section 732.202(h)(3) of this Part demonstrating that the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met or elects to classify a site under Section 732.312, the owner or operator of any site for which a release of petroleum has been confirmed in accordance with regulations promulgated by the

OSFM and reported to IEMA shall arrange for site evaluation and classification in accordance with the requirements of this Section. A Licensed Professional Engineer or Licensed Professional Geologist (or, where appropriate, persons working under the direction of a Licensed Professional Engineer or Licensed Professional Geologist) shall conduct the site evaluation. The results of the site evaluation shall provide the basis for determining the site classification. The site classification shall be certified by the supervising Licensed Professional Engineer or Licensed Professional Geologist.

b) As a part of each site evaluation, the Licensed Professional Engineer or Licensed Professional Geologist shall conduct a physical soil classification in accordance with the procedures at subsection (c) or (d) of this Section. Except as provided in subsection (e) of this Section, all elements of the chosen method of physical soil classification must be completed for each site. In addition to the requirement for a physical soil classification, the Licensed Professional Engineer or Licensed Professional Geologist shall, at a minimum, complete the requirements at subsections (f) through (j) of this Section before classifying a site as High Priority or Low Priority and subsection (f) through (i) of this Section before classifying a site as No Further Action.

c) Method One for Physical Soil Classification:

1) Soil Borings

A) Prior to conducting field activities, a review of scientific publications and regional geologic maps shall be conducted to determine if the subsurface strata are as generally mapped in the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference in Section 732.104 of this Part. A list of the publications reviewed and any preliminary conclusions concerning the site geology shall be included in the site classification completion report.

B) A minimum of one soil boring to a depth that includes 50 feet of native soil or to bedrock shall be performed for each tank field with a release of petroleum.

C) If, during boring, bedrock is encountered or if auger refusal occurs

because of the density of a geologic material, a sample of the bedrock or other material shall be collected to determine permeability or an in situ test shall be performed to determine hydraulic conductivity in accordance with subsections (c)(3)(A) and (c)(3)(B) of this Section. If bedrock is encountered or auger refusal occurs, the Licensed Professional Engineer or Licensed Professional Geologist shall verify that the conditions that prevented the full boring are expected to be continuous through the remaining required depth.

D) Borings shall be performed within 200 feet of the outer edge of the tank field or at the property boundary, whichever is less. If more than one boring is required per site, borings shall be spaced to provide reasonable representation of site characteristics. The actual spacing of the borings shall be based on the regional hydrogeologic information collected in accordance with subsection (c)(1)(A) of this Section. Location shall be chosen to limit to the greatest extent possible the vertical migration of contamination.

E) Soil borings shall be continuously sampled to ensure that no gaps appear in the sample column.

F) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.

G) Any water bearing units encountered shall be protected as necessary to prevent cross-contamination during drilling.

H) The owner or operator may utilize techniques other than those specified in this subsection (c)(1) for soil classification provided that:

i) The techniques provide equivalent, or superior, information as required by this Section;

ii) The techniques have been successfully utilized in applications similar to the proposed application;

iii) Methods for quality control can be implemented; and

iv) The owner or operator has received written approval from the Agency prior to the start of the investigation.

2) Soil Properties
The following tests shall be performed on a representative sample of each of the stratigraphic units encountered in the native soil boring that has been determined most conducive to transporting contaminants from the source based on site factors, including but not limited to visual and tactile observations, the classification of the soil, any prior evaluation of the site stratigraphy, the volume of the release, the thickness or extent of the stratigraphic unit, and the requirements of ASTM D 2488-93, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993:

A) A soil particle analysis using the test methods specified in ASTM (American Society for Testing and Materials) Standard D 422-63 or D 1140-92, "Standard Test Method for Particle-Size Analysis of Soils," or "Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75µm) Sieve," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

B) A soil moisture content analysis using the test methods specified in ASTM Standard D 2216-92 or D 4643-93, "Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock," or "Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

C) A soil classification using the test methods specified in ASTM Standard D 2487-93 or D 2488-93, "Standard Test Method for Classification of Soils for Engineering Purposes" or "Standard Practice for Description and Identification of Soils (Visual-Manual Procedure)," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

D) Unconfined compression strength shall be determined in tons per square foot by using a hand penetrometer; and

E) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Standard Test Method D 1587-83, incorporated by reference in Section 732.104 of this Part, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of Section 732.308(a) of this Part.

3) Hydraulic Conductivity

A) If a water bearing unit is encountered while performing soil boring(s) for the physical soil classification, an in-situ hydraulic conductivity test shall be performed in the first fully saturated layer below the water table. If multiple water bearing units are encountered, an in-situ hydraulic conductivity test shall be performed on each such unit.

i) Wells used for hydraulic conductivity testing shall be constructed in a manner that ensures the most accurate results.

ii) The screen must be contained within the saturated zone.

B) If no water bearing unit is encountered in the required soil boring(s), then the following laboratory analyses shall be conducted, as applicable, on a representative sample from each stratigraphic unit:

i) A hydraulic conductivity analysis of undisturbed or laboratory compacted granular soils (i.e., clay, silt, sand or gravel) using the test method specified in ASTM Standard D 5084-90, "Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter," incorporated by reference in Section 732.104 of this Part, or other Agency

approved method.

ii) Granular soils that are estimated to have hydraulic conductivity greater than 1 x 10^{-3} cm/sec will fail the minimum geologic conditions for "No Further Action", i.e., rating of D, E, F, or G as described in the Berg Circular, and therefore, no physical tests need to be run on the soils.

iii) A hydraulic conductivity analysis of bedrock using the test method specified in ASTM Standard D 4525-90, "Standard Test Method for Permeability of Rocks by Flowing Air," incorporated by reference in Section 732.104 of this Part, or other Agency approved method.

iv) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Standard Test Method D 1587-83, incorporated by reference in Section 732.104 of this Part, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of Section 732.308(a) of this Part.

4) If the results of the physical soil classification or groundwater investigation reveal that the actual site geologic characteristics are different from those generally mapped by the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part, the site classification shall be determined using the actual site geologic characteristics.

d) Method Two for Physical Soil Classification:

1) Soil Borings

A) A minimum of one soil boring to a depth that includes native material from the invert elevation of the most shallow UST to 15 feet below the invert elevation of the deepest UST for each tank field with a release of petroleum.

B) This boring shall meet the requirements of subsections (c)(1)(C) through (c)(1)(G) of this Section.

2) Soil Properties
The following tests must be performed on a representative sample of each of the stratigraphic units encountered in the native soil boring that has been determined most conducive to transporting contaminants from the source based on site factors including but not limited to visual and tactile observations, the classification of the soil, any prior evaluation of the site stratigraphy, the volume of the release, the size or extent of the unit, and the requirements of ASTM D 2488-93, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993 and incorporated by reference in Section 732.104 of this Part:

A) A soil particle analysis satisfying the requirements of subsection (c)(2)(A) of this Section; and

B) Either:

i) A pump test or equivalent to determine the yield of the geologic material. Methodology, assumptions and any calculations performed shall be submitted as part of the site classification completion report. If the aquifer geometry and transmissivity have been obtained through a site-specific field investigation, an analytical solution may be used to estimate well yield. The Licensed Professional Engineer or Licensed Professional Geologist shall demonstrate the appropriateness of the analytical solution to estimate well yield versus an actual field test. Well yield should be determined for either confined or unconfined formations. Once the yield has been determined site-specifically, the hydraulic conductivity shall be calculated; or

ii) Hydraulic conductivity shall be determined in accordance with subsection (c)(3) of this Section. Once the hydraulic conductivity has been determined site-specifically, the yield shall be calculated.

C) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Standard Test Method D1587-83, incorporated by reference in Section 732.104 of this Part, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of Section 732.308(a) of this Part.

3) The results of the boring(s) and tests described in subsections (d)(1) and (d)(2) of this Section shall be used to demonstrate whether the native material from the invert elevation of the most shallow UST to 15 feet below the invert elevation of the deepest UST meets all of the following criteria:

A) Does not contain unconsolidated sand, gravel or sand and gravel that is 5 feet or more in thickness with 12 percent or less fines (i.e., fines that pass through a No. 200 sieve tested according to ASTM Standard Test Method D 2487-93, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference at Section 732.104 of this Part, or other Agency approved method);

B) Does not contain sandstone that is 10 feet or more in thickness, or fractured carbonate that is 15 feet or more in thickness;

C) Is not capable of sustained groundwater yield, from up to a 12 inch borehole, of 150 gallons per day or more from a thickness of 15 feet or less; and

D) Is not capable of hydraulic conductivity of 1×10^{-4} cm/sec or

greater.

e) If, during the completion of the requirements of subsection (c) or (d) of this Section, a Licensed Professional Engineer or Licensed Professional Geologist determines that the site geology is not consistent with area D, E, F or G of the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference in Section 732.104 of this Part or that the criteria of subsection (d)(3) are not satisfied, any remaining steps required by subsection (c) or (d) may be suspended, provided that the soil investigation has been sufficient to satisfy the requirements of subsection (g) of this Section. If activities are suspended under this subsection (e), the Licensed Professional Engineer or Licensed Professional Geologist shall complete the requirements of subsections (f) through (j) of this Section in order to determine whether the site is High Priority or Low Priority. The site conditions upon which the suspension of the requirements of subsection (c) or (d) of this Section is based shall be documented in the site classification completion report.

f) Survey of Water Supply Wells. At a minimum, the owner or operator must conduct a water supply well survey to identify all potable water supply wells located at the site and within 200 feet of the site, all community water supply wells located at the site and within 2,500 feet of the site, and all regulated recharge areas and wellhead protection areas in which the site is located. Actions taken to identify the wells must include, but is not limited to, the following.

1) Contacting the Agency's Division of Public Water Supplies to identify community water supply wells, regulated recharge areas, and wellhead protection areas;

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

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

g) Investigation of Migration Pathways

1) The Licensed Professional Engineer or Licensed Professional Geologist shall conduct an investigation either separately or in conjunction with the physical soil classification to identify all potential natural and man-made migration pathways that are on the site, in rights-of-way attached to the site, or in any area surrounding the site that may be adversely affected as a result of the release of petroleum from the UST system. Once the migration pathways have been identified, the areas along all such pathways shall be further investigated in a manner sufficient to determine whether there is evidence that migration of petroleum or vapors along such pathways:

A) May potentially threaten human health or human safety; or

B) May cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.

2) Natural pathways shall be identified using data obtained from investigation at the site. This must include, but is not limited to, identification and location of groundwater if encountered during excavation activities or soil boring activities, identification of different soil strata during excavation activities or soil boring activities and inspection of surface water bodies. Investigation and evaluation of natural migration pathways shall include, for applicable indicator contaminants along potential natural migration pathways:

A) Soil sampling and laboratory analysis of samples; and

B) When groundwater is encountered or when there is potential for surface water contamination, groundwater and surface water sampling and laboratory analysis of samples.

3) Man-made pathways shall be identified from available sources, including but not limited to site plans; a review of underground utilities as identified by the Joint Utility Location Information for Excavators (J.U.L.I.E.), the Chicago Utility Alert Network (Digger), another public locator, or a private locator; and interviews with site owners or personnel. The Licensed Professional Engineer or Licensed Professional Geologist must determine whether migration of indicator contaminants along any of these

pathways has occurred, using laboratory analytical data for applicable indicator contaminants obtained as follows:

A) From prior sampling, provided that such laboratory analytical data demonstrates that no contaminant of concern has migrated to or along any man-made pathways;

B) From soil samples, and groundwater samples if groundwater is encountered, taken between man-made pathways and contaminated soil, provided that such laboratory analytical data demonstrates that no contaminant of concern has migrated to or along any man-made pathways; or

C) From soil samples, and groundwater samples if groundwater is encountered, taken along man-made pathways.

4) The Licensed Professional Engineer or Licensed Professional Geologist shall provide a map of the site and any surrounding areas that may be adversely affected by the release of petroleum from the UST system. At a minimum, the map shall be to scale, oriented with north at the top, and shall show the location of the leaking UST system(s) with any associated piping and all potential natural and man-made pathways that are on the site, that are in rights-of-way attached to the site, or that are in areas that may be adversely affected as a result of the release of petroleum.

5) Unless the Agency's review reveals objective evidence to the contrary, the Licensed Professional Engineer or Licensed Professional Geologist shall be presumed correct when certifying whether or not there is evidence that, through natural or man-made pathways, migration of petroleum or vapors:

A) May potentially threaten human health or human safety; or

B) May cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.

h) The Licensed Professional Engineer or Licensed Professional Geologist shall verify whether Class III groundwater exists within 200 feet of the UST system.

i) The Licensed Professional Engineer or Licensed Professional Geologist shall

locate all surface bodies of water on site and within 100 feet of the site and provide a map noting the locations. All such surface bodies of water shall be inspected to determine whether they have been adversely affected by the presence of a sheen or free product layer resulting from the release of petroleum from the UST system.

j) Groundwater Investigation

1) For sites failing to meet NFA site classification or for sites where a groundwater investigation is necessary pursuant to Section 732.302(b) of this Part, the Licensed Professional Engineer or Licensed Professional Geologist shall perform a groundwater investigation as required under this Part in accordance with this subsection (j) to determine whether the most stringent Tier 1 groundwater remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been exceeded at the property boundary or 200 feet from the UST system, whichever is less, as a result of the UST release of petroleum.

2) Applicable indicator contaminants shall be those identified pursuant to Section 732.310 of this Part.

3) Except as provided in subsection (j)(6) of this Section, a minimum of four groundwater monitoring wells shall be installed at the property boundary or 200 feet from the UST system, whichever is less. In the event that a groundwater monitoring well cannot be physically installed at the property line or 200 feet from the UST system, whichever is closer, in accordance with this subsection (j), the owner or operator shall request approval from the Agency to place the well further out, but at the closest practical point to the compliance point. The owner or operator may elect to place a monitoring well in a location that is closer to the UST system than this Part requires. However, once the election is made, the owner or operator may not withdraw the election at a later time. The Agency may require the installation of additional monitoring wells to ensure that at least one monitoring well is located hydraulically upgradient and three monitoring wells are located hydraulically downgradient of the UST system. The wells must be installed so that they provide the greatest likelihood of detecting migration of groundwater contamination. At a minimum, monitoring well construction shall satisfy the following requirements:

A) Construction shall be in a manner that will enable the collection of representative groundwater samples;

B) All monitoring wells shall be cased in a manner that maintains the integrity of the borehole. Casing material shall be inert so as not to affect the water sample. Casing requiring solvent-cement type couplings shall not be used;

C) Wells shall be screened to allow sampling only at the desired interval. Annular space between the borehole wall and well screen section shall be packed with clean, well-rounded and uniform material sized to avoid clogging by the material in the zone being monitored. The slot size of the screen shall be designed to minimize clogging. Screens shall be fabricated from material that is inert with respect to the constituents of the groundwater to be sampled;

D) Annular space above the well screen section shall be sealed with a relatively impermeable, expandable material such as cement/bentonite grout that does not react with or in any way affect the sample, in order to prevent contamination of groundwater samples and groundwater and avoid interconnections. The seal shall extend to the highest known seasonal groundwater level;

E) The annular space shall be backfilled with expanding cement grout from an elevation below the frost line and mounded above the surface and sloped away from the casing so as to divert surface water away;

F) All monitoring wells shall be covered with vented caps and equipped with devices to protect against tampering and damage. Locations of wells shall be clearly marked and protected against damage from vehicular traffic or other activities associated with expected site use; and

G) All wells shall be developed to allow free entry of groundwater, minimize turbidity of the sample, and minimize clogging.

4) Monitoring well construction diagrams prescribed and provided by the Agency shall be completed for each monitoring well.

5) Static water elevations shall be measured for each monitoring well. Groundwater samples shall be taken from each well and analyzed for the applicable indicator contaminants. The data collected shall be used to determine the direction of groundwater flow and whether the applicable groundwater remediation objectives have been exceeded. Samples shall be collected and analyzed in accordance with the following procedures:

A) Samples shall be collected in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 732.104 of this Part, or other procedures approved by the Agency.

B) Groundwater elevation in a groundwater monitoring well shall be determined and recorded to establish the gradient of the groundwater table.

C) The analytical methodology used for the analysis of the indicator contaminants shall be consistent with both of the following:

i) The methodology must have a practical quantitation limit (PQL) at or below the most stringent objectives or detection levels set forth in 35 Ill. Adm. Code 742 or as set for mixtures or degradation products as provided in Section 732.310 of this Part; and

ii) The methodology must be consistent with the methodologies contained in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, as incorporated by reference at Section 732.104, or other Agency approved methods.

D) In addition to analytical results, sampling and analytical reports shall contain the following information:

i) Sample collection information including but not limited to the name of sample collector, time and date of sample

collection, method of collection, and monitoring location;

ii) Sample preservation and shipment information including but not limited to field quality control;

iii) Analytical procedures including but not limited to the method detection limits and the practical quantitation limits (PQL);

iv) Chain of custody and control; and

v) Field and lab blanks.

6) As an alternative to the installation of monitoring wells under subsection (j)(3) of this Section, the Licensed Professional Engineer or Licensed Professional Geologist may demonstrate to the Agency through a site-specific evaluation that the groundwater monitoring should not be required.

A) The evaluation shall be based on a demonstration of the following factors:

i) Whether groundwater is present within the depth of the boring used to perform physical soil classification under the selected method (Method One under subsection (c) of this Section or Method Two under subsection (d) of this Section);

ii) Whether groundwater is withdrawn for potable use within 1000 feet of the UST system and at what depths; and

iii) Whether seasonal fluctuation in groundwater could result in groundwater contacting contaminated soil (e.g., historical records).

B) The presence or absence of a water bearing unit under subsection (j)(6)(A)(i) of this Section shall be determined on the basis of at least one soil boring to the depth necessary to perform physical soil classification under the selected method (Method One under

subsection (c) of this Section or Method Two under subsection (d) of this Section), unless auger refusal occurs because of the density of a geologic material or because bedrock is encountered. If auger refusal occurs, then the Licensed Professional Engineer or Licensed Professional Geologist must demonstrate the depth to a water bearing unit from the available site specific or regional information.

C) If the evaluation fails to demonstrate to the Agency that a groundwater investigation should not be required as part of site classification activities, then the Licensed Professional Engineer or Licensed Professional Geologist shall perform a groundwater investigation in accordance with the remainder of this subsection (j).

D) If the evaluation demonstrates to the Agency that a groundwater investigation should not be required, then the site shall be classified as Low Priority, unless other High Priority criteria are present. Upon Agency approval of the evaluation to demonstrate that a groundwater investigation should not be required, then the site shall be classified as Low Priority and a No Further Remediation Letter shall be issued to the owner or operator of the site, unless other High Priority criteria are present.

Section 732.308 Boring Logs and Sealing of Soil Borings and Groundwater Monitoring Wells

a) Soil boring logs shall be kept for all soil borings. The logs shall be submitted along with the site classification completion report and shall be on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

1) Soil boring logs shall contain the following information at a minimum:

A) Sampling device, sample number and amount of recovery;

B) Total depth of boring to the nearest 6 inches;

C) Detailed field observations describing materials encountered in

boring, including soil constituents, consistency, color, density, moisture, odors, and the nature and extent of sand or gravel lenses or seams equal to or greater than 1 inch in thickness;

D) Petroleum hydrocarbon vapor readings (as determined by continuous screening of borings with field instruments capable of detecting such vapors);

E) Locations of sample(s) used for physical or chemical analysis; and

F) Groundwater levels while boring and at completion.

2) Boring logs for soil boring(s) completed for physical soil classification also shall include the following information, as applicable for the classification method chosen, for each stratigraphic unit encountered at the site:

A) Moisture content;

B) Unconfined compression strength in tons per square foot (TSF) using a hand penetrometer;

C) Unified Soil Classification System (USCS) soil classification group symbol in accordance with ASTM Standard D 2487-93, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference in Section 732.104 of this Part, or other Agency approved method; and

D) The reasoning behind the Licensed Professional Engineer's or Licensed Professional Geologist's decision to perform or not perform soil testing pursuant to Section 732.307(c)(2) and (d)(2) of this Part as to each identified stratigraphic unit.

b) Boreholes and monitoring wells shall be abandoned pursuant to regulations promulgated by the Illinois Department of Public Health at 77 Ill. Adm. Code 920.120.

Section 732.309 Site Classification Completion Report

a) Within 30 days after the completion of a site evaluation in accordance with Section 732.307 of this Part, the owner or operator shall submit to the Agency a site classification completion report addressing all applicable elements of the site evaluation. The report shall contain all maps, diagrams, and any other information required by Section 732.307 of this Part, the results or conclusions of all surveys and investigations and any documentation necessary to demonstrate those results or conclusions, and the certification of a Licensed Professional Engineer or Licensed Professional Geologist of the site's classification as No Further Action, Low Priority or High Priority in accordance with this Subpart C. Documentation of the water supply well survey conducted pursuant to Section 732.307(f) of this Part must include, but is not limited to, the following:

1) One or more maps, to an appropriate scale, showing the following:

A) The location of the community water supply wells and other potable water supply wells identified pursuant to Section 732.307(f) of this Part, and the setback zone for each well;

B) The location and extent of regulated recharge areas and wellhead protection areas identified pursuant to Section 732.307(f) of this Part;

C) The current extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

D) The modeled extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. The information required under this subsection (D) is not required to be shown in the site classification completion report if modeling is not performed as part of site investigation;

2) One or more tables listing the setback zones for each community water supply well and other potable water supply wells identified pursuant to Section 732.307(f) of this Part;

3) A narrative that, at a minimum, identifies each entity contacted to identify

potable water supply wells pursuant to Section 732.307(f) of this Part, the name and title of each person contacted at each entity, and field observations associated with the identification of potable water supply wells; and

4) A certification from a Licensed Professional Engineer or Licensed Professional Geologist that the water supply well survey was conducted in accordance with the requirements of Section 732.307(f) of this Part and that the documentation submitted pursuant to this Section includes the information obtained as a result of the survey.

b) The Agency shall have the authority to review and approve, reject or require modification of any report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

Section 732.310 Indicator Contaminants

a) For purposes of this Part, the term "indicator contaminants" shall mean the parameters identified in subsections (b) through (i) of this Section.

b) For gasoline, including but not limited to leaded, unleaded, premium and gasohol, the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes and methyl tertiary butyl ether (MTBE), except as provided in subsection (h) of this Section. For leaded gasoline, lead shall also be an indicator contaminant.

c) For aviation turbine fuels, jet fuels, diesel fuels, gas turbine fuel oils, heating fuel oils, illuminating oils, kerosene, lubricants, liquid asphalt and dust laying oils, cable oils, crude oil, crude oil fractions, petroleum feedstocks, petroleum fractions and heavy oils, the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes and the polynuclear aromatics listed in Appendix B of this Part. For leaded aviation turbine fuels, lead shall also be an indicator contaminant.

d) For transformer oils the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, and the polynuclear aromatics and the polychlorinated biphenyl parameters listed in Appendix B of this Part.

e) For hydraulic fluids the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, the polynuclear aromatics listed in Appendix B of this Part

and barium.

f) For petroleum spirits, mineral spirits, Stoddard solvents, high-flash aromatic naphthas, moderately volatile hydrocarbon solvents and petroleum extender oils, the indicator contaminants shall be the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B of this Part. The Agency may add degradation products or mixtures of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.

g) For used oil the indicator contaminants shall be determined by the results of a used oil soil sample analysis. In accordance with Section 732.202(h) of this Part, soil samples must be collected from the walls and floor of the used oil UST excavation if the UST is removed, or from borings drilled along each side of the used oil UST if the UST remains in place. The sample that appears to be the most contaminated as a result of a release from the used oil UST must then be analyzed for the following parameters. If none of the samples appear to be contaminated a soil sample must be collected from the floor of the used oil UST excavation below the former location of the UST if the UST is removed, or from soil located at the same elevation as the bottom of the used oil UST if the UST remains in place, and analyzed for the following parameters:

1) All volatile, base/neutral, polynuclear aromatic, and metal parameters listed at Appendix B of this Part and any other parameters the Licensed Professional Engineer or Licensed Professional Geologist suspects may be present based on UST usage. The Agency may add degradation products or mixtures of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.

2) The used oil indicator contaminants shall be those volatile, base/neutral, and metal parameters listed at Appendix B of this Part or as otherwise identified at subsection (g)(1) of this Section that exceed their remediation objective at 35 Ill. Adm. Code 742 in addition to benzene, ethylbenzene, toluene, total xylenes, and polynuclear aromatics listed in Appendix B of this Part.

3) If none of the parameters exceed their remediation objective, the used oil indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, and the polynuclear aromatics listed in Appendix B of this Part.

h) Unless an owner or operator elects otherwise pursuant to subsection (i) of this Section, the term "indicator contaminants" shall not include MTBE for any release reported to the Illinois Emergency Management Agency prior to June 1, 2002 (the effective date of amendments establishing MTBE as an indicator contaminant).

i) An owner or operator exempt from having to address MTBE as an indicator contaminant pursuant to subsection (h) of this Section may elect to include MTBE as an indicator contaminant under the circumstances listed in subsections (1) or (2) of this subsection (i). Elections to include MTBE as an indicator contaminant must be made by submitting to the Agency a written notification of such election signed by the owner or operator. The election must be effective upon the Agency's receipt of the notification and cannot be withdrawn once made. Owners or operators electing to include MTBE as an indicator contaminant must remediate MTBE contamination in accordance with the requirements of this Part.

1) If the Agency has not issued a No Further Remediation Letter for the release; or

2) If the Agency has issued a No Further Remediation Letter for the release and the release has caused off-site groundwater contamination exceeding the remediation objective for MTBE set forth in 35 Ill. Adm. Code 742.

Section 732.311 Groundwater Remediation Objectives

For purposes of this Part, remediation objectives for groundwater shall be the groundwater remediation objectives specified in 35 Ill. Adm. Code 742 for the applicable indicator contaminants. For mixtures and degradation products that have been included as indicator contaminants in accordance with Section 732.310 of this Part, the Agency shall determine groundwater remediation objectives on a site-by-site basis.

Section 732.312 Classification by Exposure Pathway Exclusion

a) An owner or operator electing to classify a site by exclusion of human exposure pathways under 35 Ill. Adm. Code 742, Subpart C, shall meet the requirements of this Section, except as provided in subsections (a)(1) and (j) of this Section.

1) Such election shall be made in writing by the owner or operator as part of the submission of the site classification plan under subsection (b) of this

Section. The election may be made at any time until the Agency issues a No Further Remediation Letter, provided, however, that the election must be received by the Agency prior to March 1, 2006. On or after March 1, 2006, owners and operators desiring to proceed with the exclusion of human exposure pathways under 35 Ill. Adm. Code 742, Subpart C, must elect pursuant to 35 Ill. Adm. Code 734.105 to proceed in accordance with 35 Ill. Adm. Code 734 and conduct site investigation and corrective action in accordance with that Part instead of meeting the requirements of this Section.

2) An owner or operator who chooses to revoke an election submitted under subsection (b) of this Section shall do so in writing.

b) The owner or operator, prior to conducting any site evaluation activities, shall submit to the Agency a site classification plan including, but not limited to, a contaminant identification and groundwater investigation plan (if one or more of the criteria set forth in Section 732.202(h)(4)(A) through (C) of this Part are met), satisfying the minimum requirements for site evaluation activities as set forth in this Section. The plans shall be designed to:

1) Determine the full extent of soil or groundwater contamination exceeding the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. Such activities may include soil borings with sampling and analysis, groundwater monitoring wells with sampling and analysis, groundwater modeling, or a combination of these activities.

2) Collect data sufficient to determine which, if any, of the applicable exposure routes under 35 Ill. Adm. Code 742 can be excluded pursuant to 35 Ill. Adm. Code 742, Subpart C. The data shall include, but is not limited to, site-specific data demonstrating the physical characteristics of soil and groundwater.

c) A Licensed Professional Engineer or Licensed Professional Geologist (or, where appropriate, persons working under the direction of a Licensed Professional Engineer or Licensed Professional Geologist) shall conduct the site evaluation. The results of the site evaluation shall provide the basis for determining the site classification. The site classification shall be certified by the supervising Licensed Professional Engineer or Licensed Professional Geologist.

d) As a part of each site evaluation, the Licensed Professional Engineer or Licensed Professional Geologist shall conduct physical soil classification and contaminant identification in accordance with the procedures at subsection (b) of this Section.

e) In addition to the plan required in subsection (b) of this Section and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency a site classification budget plan with the corresponding site classification plan. The budget plan shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and an estimate of all costs associated with the development, implementation and completion of the site evaluation activities required under subsection (b) of this Section, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part.

f) Sites shall be classified as No Further Action if the Licensed Professional Engineer or Licensed Professional Geologist determines that all applicable exposure routes can be excluded from further consideration pursuant to 35 Ill. Adm. Code 742, Subpart C.

g) Sites shall be classified as High Priority if the Licensed Professional Engineer or Licensed Professional Geologist determines that any of the applicable exposure routes cannot be excluded from further consideration pursuant to 35 Ill. Adm. Code 742, Subpart C.

h) Within 30 days after the completion of a site evaluation in accordance with this Section, the owner or operator shall submit to the Agency a site classification completion report addressing all applicable elements of the site evaluation. The report shall contain all maps, diagrams, and any other information required by this Section, the results or conclusions of all surveys and investigations and any documentation necessary to demonstrate those results or conclusions, and the certification of a Licensed Professional Engineer or Licensed Professional Geologist of the site's classification as No Further Action or High Priority in accordance with this Section. For any site classified as High Priority, the report shall also contain the certification of a Licensed Professional Engineer or Licensed Professional Geologist as to which exposure routes, if any, have been excluded from further consideration under 35 Ill. Adm. Code 742, Subpart C.

i) The Agency shall have the authority to review and approve, reject or require modification of any classification plan, budget plan, or report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

j) Notwithstanding subsections (b) and (e) of this Section, prior to March 1, 2006 an owner or operator may proceed to conduct site evaluation activities in accordance with this Section prior to the submittal or approval of any otherwise required site classification plan or budget plan. However, any such classification plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter. On or after March 1, 2006, owners and operators desiring to proceed with the exclusion of human exposure pathways under 35 Ill. Adm. Code 742, Subpart C, must elect pursuant to 35 Ill. Adm. Code 734.105 to proceed in accordance with 35 Ill. Adm. Code 734 and conduct site investigation and corrective action in accordance with that Part instead of meeting the requirements of this Section.

k) If, following the approval of any site classification plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended site classification plan or associated budget plan for review by the Agency. The Agency shall have the authority to review and approve, reject, or require modification of the amended plan or budget plan in accordance with the procedures contained in Subpart E of this Part.

BOARD NOTE: Owners or operators proceeding under subsection (a)(2) or (j) of this Section are advised that they may not be entitled to full payment from the Fund and that applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. Furthermore, owners or operators may only be reimbursed for one method of site classification. See Subpart F of this Part.

Owners and operators are also advised that the total payment from the Fund for all corrective action plans and associated budget plans submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

SUBPART D: CORRECTIVE ACTION

Section 732.400 General

a) Following approval of the site evaluation and classification by the Agency pursuant to Subpart C of this Part and except as provided in subsection (b) or (c) of this Section, the owner or operator of a UST system subject to the requirements of this Part shall develop and submit a corrective action plan and perform corrective action activities in accordance with the procedures and requirements contained in this Subpart D.

b) Owners or operators of sites classified in accordance with the requirements of Subpart C as No Further Action may choose to conduct remediation sufficient to satisfy the remediation objectives referenced in Section 732.408 of this Part.

c) Owners or operators of sites classified in accordance with the requirements of Subpart C as Low Priority may choose to conduct remediation sufficient to satisfy the remediation objectives referenced in Section 732.408 of this Part. Any owner or operator choosing to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part shall so notify the Agency in writing prior to conducting such efforts. Upon completion of the remediation activities, owners or operators choosing to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part shall submit a corrective action completion report to the Agency demonstrating compliance with the required levels. Upon approval of the corrective action completion report by the Agency in accordance with Subpart E, a No Further Remediation Letter shall be issued by the Agency.

BOARD NOTE: Owners or operators proceeding under subsection (b) or (c) of this Section are advised that they may not be entitled to full payment from the Fund. See Subpart F of this Part.

Section 732.401 Agency Authority to Initiate

Pursuant to Sections 732.100 or 732.105 of this Part, the Agency shall have the authority to require or initiate corrective action activities in accordance with the remainder of this Subpart D.

Section 732.402 No Further Action Site

The owner or operator of a site that has been certified as a No Further Action site by a Licensed

Professional Engineer or Licensed Professional Geologist and approved as such by the Agency shall have no additional remediation responsibilities beyond those performed pursuant to Subpart B or C of this Part. If the Agency fails to approve, reject or modify the site classification completion report within 120 days after receipt of the completion report pursuant to Section 732.309 or Section 732.312, the site classification completion report is rejected by operation of law.

Section 732.403 Low Priority Site

a) The owner or operator of a site that has been certified as a Low Priority site by a Licensed Professional Engineer or Licensed Professional Geologist and approved as such by the Agency shall develop a groundwater monitoring plan and perform groundwater monitoring in accordance with the requirements of this Section.

b) The owner or operator shall develop a groundwater monitoring plan designed to satisfy the following requirements at a minimum:

1) Groundwater monitoring shall be conducted for a period of three years following the Agency's approval of the site classification, unless subsection (b)(6) or subsection (i) of this Section applies;

2) Groundwater monitoring wells shall be placed at the property line or 200 feet from the UST system, whichever is closer. The wells shall be placed in a configuration designed to provide the greatest likelihood of detecting migration of groundwater contamination. In the event that a groundwater monitoring well cannot physically be installed at the property line or 200 feet from the UST system, whichever is closer, in accordance with this subsection (b)(2), the owner or operator shall request approval from the Agency to place the well further out, but at the closest practical point to the compliance point. The owner or operator may elect to place a monitoring well in a location that is closer to the UST system than the rule requires. However, once the election is made the owner or operator may not withdraw the election at a later time;

3) Groundwater monitoring wells shall satisfy the requirements at Section 732.307(j)(3) and (4) of this Part;

4) During the first year of groundwater monitoring, samples from each well shall be collected and analyzed on a quarterly basis. During the second

year of groundwater monitoring, samples from each well shall be collected and analyzed during the second and fourth quarters. During the third and final year of groundwater monitoring, at a minimum, samples from each well shall be collected and analyzed in the fourth quarter;

5) To determine whether groundwater remediation objectives have been exceeded, samples for groundwater monitoring shall be collected and analyzed in accordance with the procedures set forth in Section 732.307(j)(5) of this Part for the applicable indicator contaminants determined pursuant to Section 732.310 of this Part;

6) The owner or operator may use groundwater monitoring data that has been collected up to 3 years prior to the site being certified as Low Priority, if the data meets the requirements of subsections (b)(2) through (b)(5) of this Section. This data may be used to satisfy all or part of the three year period of groundwater monitoring required under this Section.

c) Prior to the implementation of groundwater monitoring, except as provided under subsection (b)(6) of this Section, the owner or operator shall submit the groundwater monitoring plan to the Agency for review in accordance with Section 732.405 of this Part. If the owner or operator intends to seek payment from the Fund, a groundwater monitoring budget plan also shall be submitted to the Agency for review.

d) Groundwater analysis results obtained pursuant to subsection (b) of this Section shall be submitted to the Agency within 30 days after the end of each annual sampling period, except as provided under subsection (b)(6) of this Section. Groundwater analysis data being used pursuant to subsection (b)(6) shall be submitted to the Agency as part of a Low Priority groundwater monitoring plan or the Low Priority groundwater monitoring completion report.

1) The information to be collected shall include, but not be limited to, the information set forth in Section 732.307(j)(5) of this Part.

2) If at any time the groundwater analysis results indicate a confirmed exceedence of the applicable indicator contaminant groundwater remediation objectives as a result of the underground storage tank release of petroleum, the owner or operator shall notify the Agency of the exceedence within 30 days and provide supporting documentation of the

nature and extent of the exceedence.

3) Indicator contaminant groundwater remediation objectives shall be determined in accordance with Section 732.311 of this Part.

e) Within 30 days after the completion of the Low Priority groundwater monitoring plan, the owner or operator shall submit to the Agency a groundwater monitoring completion report in accordance with Section 732.409 of this Part. If there is no confirmed exceedence of applicable indicator contaminant objectives during the three year groundwater monitoring period, the report shall contain a certification to that effect by a Licensed Professional Engineer or Licensed Professional Geologist.

f) The Agency shall review the groundwater monitoring completion report in accordance with the procedures set forth in Subpart E of this Part and shall issue a No Further Remediation Letter to the owner or operator in accordance with Subpart G of this Part upon approval of the report by the Agency. If the owner or operator elects to appeal an Agency action to disapprove, modify, or reject by operation of law a Low Priority groundwater monitoring completion report, the Agency shall indicate to the Board in conjunction with such appeal whether it intends to reclassify the site as High Priority.

g) If at any time groundwater analysis results indicate a confirmed exceedence of applicable indicator contaminant objectives, the Agency may reclassify the site as a High Priority site any time before the Agency's final approval of a Low Priority groundwater monitoring completion report. The Agency shall notify the owner or operator in writing if a site is reclassified. Notice of reclassification shall be by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed. Any action by the Agency to reclassify the site as a High Priority site shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for in the review of permit decisions in Section 40 of the Act.

h) The owner or operator of a Low Priority site reclassified to High Priority pursuant to subsection (g) of this Section shall develop and submit for Agency approval a High Priority corrective action plan satisfying the requirements of Section 732.404 of this Part within 120 days after receiving the notice of reclassification. If the owner or operator intends to seek payment from the Fund, a corrective

action budget plan also shall be submitted within 120 days after receiving the notice of reclassification.

i) As a result of the demonstration under Section 732.307(j)(6), the owner or operator of a site classified as Low Priority by a Licensed Professional Engineer or Licensed Professional Geologist shall prepare a report in accordance with Section 732.409 of this Part, that supports the issuance of a No Further Remediation Letter or reclassification of the site as a High Priority site. In the event the site is reclassified as a High Priority site, the owner or operator shall develop and submit for Agency approval a High Priority corrective action plan in accordance with subsection (h) of this Section.

Section 732.404 High Priority Site

a) The owner or operator of a site classified as High Priority shall develop a corrective action plan and perform corrective action in accordance with the requirements of this Section. The purpose of the corrective action plan shall be to remediate or eliminate each of the criteria set forth in subsection (b) of this Section that caused the site to be classified as High Priority.

b) The owner or operator shall develop a corrective action plan based on site conditions and designed to achieve the following as applicable to the site:

1) For sites that have submitted a site classification report under Section 732.309, provide that:

A) After complete performance of the corrective action plan, applicable indicator contaminants identified in the groundwater investigation are not present in groundwater, as a result of the underground storage tank release, in concentrations exceeding the remediation objectives referenced in Section 732.408 of this Part at the property boundary line or 200 feet from the UST system, whichever is less;

B) After complete performance of the corrective action plan, Class III special resource groundwater quality standards for Class III special resource groundwater within 200 feet of the UST system are not exceeded as a result of the underground storage tank release for any indicator contaminant identified in the groundwater

investigation;

C) After complete performance of the corrective action plan, remediation of contamination in natural or man-made exposure pathways as a result of the underground storage tank release has been conducted in accordance with 35 Ill. Adm. Code 742;

D) Threats to potable water supplies are remediated; and

E) Threats to bodies of surface water are remediated.

2) For sites that have submitted a site classification completion report under Section 732.312 of this Part, provide that, after complete performance of the corrective action plan, the concentrations of applicable indicator contaminants meet the remediation objectives developed under Section 732.408 for any applicable exposure route not excluded from consideration under Section 732.312.

c) The owner or operator is not required to perform corrective action on an adjoining or off-site property to meet the requirements of this Section, even where complete performance of the corrective action plan under subsection (b)(1) or (b)(2) of this Section would otherwise require such off-site action, if the Agency determines that the owner or operator is unable to obtain access to the property despite the use of best efforts in accordance with the requirements of Section 732.411 of this Part.

d) In developing the corrective action plan, if the Licensed Professional Engineer or Licensed Professional Geologist selects soil or groundwater remediation, or both, to satisfy any of the criteria set forth in subsection (b) of this Section, remediation objectives shall be determined in accordance with Section 732.408 of this Part. Groundwater monitoring wells shall satisfy the requirements of Section 732.307(j)(3) and (4) of this Part.

e) Except where provided otherwise pursuant to Section 732.312 of this Part, in developing the corrective action plan, additional investigation activities beyond those required for the site evaluation and classification may be necessary to determine the full extent of soil or groundwater contamination and of threats to human health or the environment. Such activities may include, but are not limited to, additional soil borings with sampling and analysis or additional groundwater

monitoring wells with sampling and analysis. Such activities as are technically necessary and consistent with generally accepted engineering practices may be performed without submitting a work plan or receiving prior approval from the Agency, and associated costs may be included in a High Priority corrective action budget plan. A description of these activities and the results shall be included as a part of the corrective action plan.

1) In addition to the potable water supply wells identified pursuant to Section 732.307(f) of this Part, the owner or operator must extend the water supply well survey if soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants extends beyond the site's property boundary, or, as part of a corrective action plan, the owner or operator proposes to leave in place soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants and contamination exceeding such objectives is modeled to migrate beyond the site's property boundary. At a minimum, the extended water supply well survey must identify the following:

A) All potable water supply wells located within 200 feet, and all community water supply wells located within 2,500 feet, of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

B) All regulated recharge areas and wellhead protection areas in which the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants is located.

2) The Agency may require additional investigation of potable water supply wells, regulated recharge areas, or wellhead protection areas if site-specific circumstances warrant. Such circumstances must include, but is not limited to, the existence of one or more parcels of property within 200 feet of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation

objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants where potable water is likely to be used, but that is not served by a public water supply or a well identified pursuant to Section 732.307(f)(1) of this Part or subsection (e)(1) of this Section. The additional investigation may include, but is not limited to, physical well surveys (e.g., interviewing property owners, investigating individual properties for wellheads, distributing door hangers or other material that requests information about the existence of potable wells on the property, etc.).

f) The owner or operator shall submit the corrective action plan to the Agency for review in accordance with Section 732.405 of this Part. If the owner or operator intends to seek payment from the Fund, a corrective action budget plan also shall be submitted to the Agency for review.

g) Within 30 days after completing the performance of the High Priority corrective action plan, the owner or operator shall submit to the Agency a corrective action completion report in accordance with Section 732.409 of this Part.

h) Within 120 days, the Agency shall review the corrective action completion report in accordance with the procedures set forth in Subpart E of this Part and shall issue a No Further Remediation Letter to the owner or operator in accordance with Subpart G of this Part upon approval by the Agency.

Section 732.405 Plan Submittal and Review

a) Prior to conducting any corrective action activities pursuant to this Subpart D, the owner or operator shall submit to the Agency a Low Priority groundwater monitoring plan or a High Priority corrective action plan satisfying the minimum requirements for such activities as set forth in Section 732.403 or 732.404 of this Part, as applicable.

b) In addition to the plans required in subsections (a), (e), and (f) of this Section and prior to conducting any groundwater monitoring or corrective action activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency a groundwater monitoring or corrective action budget plan with the corresponding groundwater monitoring or corrective action plan. Such budget plans shall include, but is not limited to, a copy of the eligibility and deductibility determination of the OSFM and an estimate of all costs associated with the

development, implementation and completion of the applicable activities, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget plan the Agency may require a comparison between the costs of the proposed method of remediation and other methods of remediation.

c) The Agency shall have the authority to review and approve, reject or require modification of any plan or budget plan submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

d) Notwithstanding subsections (a), (b), (e), and (f) of this Section and except as provided at Section 732.407 of this Part, an owner or operator may proceed to conduct Low Priority groundwater monitoring or High Priority corrective action activities in accordance with this Subpart D prior to the submittal or approval of an otherwise required groundwater monitoring plan or budget plan or corrective action plan or budget plan. However, any such plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter. BOARD NOTE: Owners or operators proceeding under subsection (d) of this Section are advised that they may not be entitled to full payment from the Fund. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

e) If, following approval of any groundwater monitoring plan, corrective action plan or associated budget plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended groundwater monitoring plan, corrective action plan or associated budget plan for review by the Agency. The Agency shall review and approve, reject, or require modifications of the amended plan or budget plan in accordance with the procedures contained in Subpart E of this Part.

f) If the Agency determines any approved corrective action plan has not achieved applicable remediation objectives within a reasonable time, based upon the method of remediation and site specific circumstances, the Agency may require the owner or operator to submit a revised corrective action plan. If the owner or

operator intends to seek payment from the Fund, the owner or operator must also submit a revised budget plan. Any action by the Agency to require a revised corrective action plan pursuant to this subsection (f) shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all groundwater monitoring plans and associated budget plans, and for all corrective action plans and associated budget plans, submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

Section 732.406 Deferred Corrective Action; Priority List for Payment

a) An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the underground storage tank fund may elect to defer site classification, low priority groundwater monitoring, or remediation activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met.

1) Approvals of budget plans shall be pursuant to Agency review in accordance with Subpart E of this Part.

2) The Agency shall monitor the availability of funds and shall provide notice of insufficient funds to owners or operators in accordance with Section 732.503(g) of this Part.

3) Owners and operators must submit elections to defer low priority groundwater monitoring or high priority corrective action activities on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

4) The Agency must review elections to defer low priority groundwater monitoring or high priority corrective action activities to determine whether the requirements of subsection (b) of this Section are met. The Agency must notify the owner or operator in writing of its final action on any such election. If the Agency fails to notify the owner or operator of its

final action within 120 days after its receipt of the election, the owner or operator may deem the election rejected by operation of law.

A) The Agency must mail notices of final action on an election to defer by registered or certified mail, postmarked with a date stamp and with return receipt requested. Final action must be deemed to have taken place on the post marked date that such notice is mailed.

B) Any action by the Agency to reject an election, or the rejection of an election by the Agency's failure to act, is subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

5) Upon approval of an election to defer low priority groundwater monitoring or high priority corrective action activities until funds are available, the Agency shall place the site on a priority list for payment and notification of availability of sufficient funds. Sites shall enter the priority list for payment and move up based solely on the date the Agency receives a complete written election of deferral, with the earliest dates having the highest priority.

6) As funds become available, the Agency shall encumber funds for each site in the order of priority in an amount equal to the total of the approved budget plan for which deferral was sought. The Agency shall then notify owners or operators that sufficient funds have been allocated for the owner's or operator's site. After such notification the owner or operator shall commence corrective action.

7) Authorization of payment of encumbered funds for deferred low priority groundwater monitoring or high priority corrective action activities shall be approved in accordance with the requirements of Subpart F of this Part.

8) The priority list for payment and notification of availability of sufficient funds shall be the same as that used for deferred site classification pursuant to Section 732.306 of this Part with both types of deferrals entering the list and moving up solely on the basis of the date the Agency receives written notice of the deferral.

b) An owner or operator who elects to defer low priority groundwater monitoring or high priority corrective action activities under subsection (a) of this Section shall submit a report certified by a Licensed Professional Engineer or Licensed Professional Geologist demonstrating the following:

1) The Agency has approved the owner's or operator's low priority groundwater monitoring or high priority corrective action budget plan;

2) The owner or operator has been determined eligible to seek payment from the Fund;

3) The early action requirements of Subpart B of this Part have been met;

4) Groundwater contamination does not exceed the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants as a result of the release, modeling in accordance with 35 Ill. Adm. Code 742 shows that groundwater contamination will not exceed such Tier 1 remediation objectives as a result of the release, and no potable water supply wells are impacted as a result of the release; and

5) Soil contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants does not extend beyond the site's property boundary and is not located within a regulated recharge area, a wellhead protection area, or the setback zone of a potable water supply well. Documentation to demonstrate that this subsection (b)(5) is satisfied must include, but is not limited to, the results of a water supply well survey conducted in accordance with Section 732.307(f) of this Part.

c) An owner or operator may, at any time, withdraw the election to defer low priority groundwater monitoring or high priority corrective action activities. The owner or operator must notify the Agency in writing of the withdrawal. Upon such withdrawal, the owner or operator shall proceed with corrective action in accordance with the requirements of this Part.

Section 732.407 Alternative Technologies

a) An owner or operator may choose to use an alternative technology for corrective action in response to a release of petroleum at a High Priority site. Corrective action plans proposing the use of alternative technologies shall be submitted to the Agency in accordance with Section 732.405 of this Part. In addition to the requirements for corrective action plans contained in Section 732.404, the owner or operator who seeks approval of an alternative technology shall submit documentation along with the corrective action plan demonstrating that:

1) The proposed alternative technology has a substantial likelihood of successfully achieving compliance with all applicable regulations and all corrective action remediation objectives necessary to comply with the Act and regulations and to protect human health or the environment;

2) The proposed alternative technology will not adversely affect human health or the environment;

3) The owner or operator will obtain all Agency permits necessary to legally authorize use of the alternative technology;

4) The owner or operator will implement a program to monitor whether the requirements of subsection (a)(1) of this Section have been met; and

5) Within one year from the date of Agency approval the owner or operator will provide to the Agency monitoring program results establishing whether the proposed alternative technology will successfully achieve compliance with the requirements of subsection (a)(1) of this Section and any other applicable regulations. The Agency may require interim reports as necessary to track the progress of the alternative technology. The Agency will specify in the approval when those interim reports shall be submitted to the Agency.

b) An owner or operator intending to seek payment for costs associated with the use of an alternative technology shall submit a corresponding budget plan in accordance with Section 732.405 of this Part. In addition to the requirements for corrective action budget plans at Section 732.404 of this Part, the budget plan must demonstrate that the cost of the alternative technology will not exceed the cost of conventional technology and is not substantially higher than other available alternative technologies. The budget plan must compare the costs of at least two other alternative technologies to the costs of the proposed alternative

technology, if other alternative technologies are available and are technically feasible.

c) If an owner or operator has received approval of a corrective action plan and associated budget plan from the Agency prior to implementing the plan and the alternative technology fails to satisfy the requirements of subsection (a)(1) or (a)(2) of this Section, such failure shall not make the owner or operator ineligible to seek payment for the activities associated with the subsequent performance of a corrective action using conventional technology. However, in no case shall the total payment for the site exceed the statutory maximums. Owners or operators implementing alternative technologies without obtaining pre-approval shall be ineligible to seek payment for the subsequent performance of a corrective action using conventional technology.

d) The Agency may require remote monitoring of an alternative technology. The monitoring may include, but is not limited to, monitoring the alternative technology's operation and progress in achieving the applicable remediation objectives.

Section 732.408 Remediation Objectives

For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Section 732.300(b), 732.400(b), or 732.400(c) of this Part, the owner or operator shall propose remediation objectives for applicable indicator contaminants in accordance with 35 Ill. Adm. Code 742.
Owners and operators seeking payment from the Fund that perform on-site corrective action in accordance with Tier 2 remediation objectives of 35 Ill. Adm. Code 742 must determine the following parameters on a site-specific basis:

Hydraulic conductivity (K)

Soil bulk density (ρ_b)

Soil particle density (ρ_s)

Moisture content (w)

Organic carbon content (f_{oc})

BOARD NOTE: Failure to use site-specific remediation objectives on-site and to utilize available groundwater ordinances as institutional controls may result in certain corrective action costs being ineligible for payment from the Fund. See Section 732.606(ddd) and (eee) of this Part.

Section 732.409 Groundwater Monitoring and Corrective Action Completion Reports

a) Within 30 days after completing the performance of a Low Priority groundwater monitoring plan or High Priority corrective action plan, the owner or operator shall submit to the Agency a groundwater monitoring completion report or a corrective action completion report.

1) The Low Priority groundwater monitoring completion report shall include, but is not limited to, a narrative describing the implementation and completion of all elements of the groundwater monitoring plan and the procedures used for collection and analysis of samples, analytical results in tabular form, actual analytical results, laboratory certification and any other information or documentation relied upon by the Licensed Professional Engineer or Licensed Professional Geologist in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site.

2) The High Priority corrective action completion report shall include, but is not limited to, a narrative and timetable describing the implementation and completion of all elements of the corrective action plan and the procedures used for the collection and analysis of samples, soil boring logs, actual analytical results, laboratory certification, site maps, well logs and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site. Documentation of any water supply well survey conducted pursuant to Section 732.404(e) of this Part must include, but is not limited to, the following:

A) One or more maps, to an appropriate scale, showing the following:

i) The location of the community water supply wells and other potable water supply wells identified pursuant to Section 732.404(e) of this Part, and the setback zone for

each well;

ii) The location and extent of regulated recharge areas and wellhead protection areas identified pursuant to Section 732.404(e) of this Part;

iii) The current extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

iv) The modeled extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

B) One or more tables listing the setback zones for each community water supply well and other potable water supply wells identified pursuant to Section 732.404(e) of this Part;

C) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells pursuant to Section 732.404(e) of this Part, the name and title of each person contacted at each entity, and field observations associated with the identification of potable water supply wells; and

D) A certification from a Licensed Professional Engineer or Licensed Professional Geologist that the water supply well survey was conducted in accordance with the requirements of Section 732.404(e) of this Part and that the documentation submitted pursuant to this Section includes the information obtained as a result of the survey.

3) A High Priority corrective action completion report shall demonstrate the following:

A) For sites submitting a site classification report under Section 732.309 of this Part:

i) Applicable indicator contaminant groundwater objectives are not exceeded at the property boundary line or 200 feet from the UST system, whichever is less, as a result of the release of petroleum for any indicator contaminant identified during the groundwater investigation;

ii) Class III resource groundwater quality standards for Class III special use resource groundwater within 200 feet of the UST system are not exceeded as a result of the release of petroleum for any indicator contaminant identified during the groundwater investigation;

iii) The release of petroleum does not threaten human health or human safety due to the presence or migration, through natural or manmade pathways, of petroleum in concentration sufficient to harm human health or human safety or to cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

iv) The release of petroleum does not threaten any surface water body; and

v) The release of petroleum does not threaten any potable water supply.

B) For sites submitting a site classification completion report under Section 732.312 of this Part, the concentrations of applicable indicator contaminants meet the remediation objectives developed under Section 732.408 of this Part for any applicable exposure route not excluded from further consideration under Section 732.312 of this Part.

b) The applicable report shall be accompanied by a certification from a Licensed Professional Engineer, in accordance with subsection (a) of this Section, that the information presented in the applicable report is accurate and complete, that groundwater monitoring or corrective action have been completed in accordance with the requirements of the Act and this Subpart D, and that no further remediation is required at the site.

c) The Agency shall have the authority to review and approve, reject or require modification of any report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

Section 732.410 "No Further Remediation" Letter (Repealed)

Section 732.411 Off-site Access

a) An owner or operator seeking to comply with the best efforts requirements of Section 732.404(c) of this Part must demonstrate compliance with the requirements of this Section.

b) In conducting best efforts to obtain off-site access, an owner or operator must, at a minimum, send a letter by certified mail to the owner of any off-site property to which access is required, stating:

1) Citation to Title XVI of the Act stating the legal responsibility of the owner or operator to remediate the contamination caused by the release;

2) That, if the property owner denies access to the owner or operator, the owner or operator may seek to gain entry by a court order pursuant to Section 22.2c of the Act;

3) That, in performing the requested investigation, the owner or operator will work so as to minimize any disruption on the property, will maintain, or its consultant will maintain, appropriate insurance and will repair any damage caused by the investigation;

4) If contamination results from a release by the owner or operator, the owner or operator will conduct all associated remediation at its own expense;

5) That threats to human health and the environment and diminished property value may result from failure to remediate contamination from the release; and

6) A reasonable time to respond to the letter, not less than 30 days.

c) An owner or operator, in demonstrating that the requirements of this Section have been met, must provide to the Agency, as part of the corrective action completion report, the following documentation:

1) A sworn affidavit, signed by the owner or operator, identifying the specific off-site property involved by address, the measures proposed in the corrective action plan that require off-site access, and the efforts taken to obtain access, and stating that the owner or operator has been unable to obtain access despite the use of best efforts; and

2) A copy of the certified letter sent to the owner of the off-site property pursuant to subsection (b) of this Section.

d) In determining whether the efforts an owner or operator has made constitute best efforts to obtain access, the Agency must consider the following factors:

1) The physical and chemical characteristics, including toxicity, persistence and potential for migration, of applicable indicator contaminants at the property boundary line;

2) The hydrogeological characteristics of the site and the surrounding area, including the attenuation capacity and saturation limits of the soil at the property boundary line;

3) The nature and extent of known contamination at the site, including the levels of applicable indicator contaminants at the property boundary line;

4) The potential effects of residual contamination on nearby surface water and groundwater;

5) The proximity, quality and current and future uses of nearby surface water and groundwater, including regulated recharge areas, wellhead protection areas, and setback zones of potable water supply wells;

6) Any known or suspected natural or man-made migration pathways existing in or near the suspected area of off-site contamination;

7) The nature and use of the part of the off-site property that is the suspected area of contamination;

8) Any existing on-site engineered barriers or institutional controls that might have an impact on the area of suspected off-site contamination, and the nature and extent of such impact; and

9) Any other applicable information assembled in compliance with this Part.

e) The Agency shall issue a No Further Remediation Letter to an owner or operator subject to this Section and otherwise entitled to such issuance only if the owner or operator has, in accordance with this Section, either completed any requisite off-site corrective action or demonstrated to the Agency's satisfaction an inability to obtain off-site access despite best efforts.

f) The owner or operator is not relieved of responsibility to clean up a release that has migrated beyond the property boundary even where off-site access is denied.

SUBPART E: REVIEW OF PLANS, BUDGET PLANS, AND REPORTS

Section 732.500 General

The Agency shall have the authority to review any plan, budget plan, or report, including any amended plan, budget plan, or report, submitted pursuant to this Part. All such reviews shall be subject to the procedures set forth in the Act and this Subpart E.

Section 732.501 Submittal of Plans or Reports (Repealed)

Section 732.502 Completeness Review (Repealed)

Section 732.503 Review of Plans, Budget Plans, or Reports

a) The Agency may review any or all technical or financial information, or both, relied upon by the owner or operator or the Licensed Professional Engineer or Licensed Professional Geologist in developing any plan, budget plan, or report selected for review. The Agency may also review any other plans, budget plans, or reports submitted in conjunction with the site.

b) The Agency shall have the authority to approve, reject or require modification of any plan, budget plan, or report it reviews. The Agency shall notify the owner or operator in writing of its final action on any such plan, budget plan, or report,

except in the case of 20 day, 45 day or free product removal reports, in which case no notification is necessary. Except as provided in subsections (c) and (d) of this Section, if the Agency fails to notify the owner or operator of its final action on a plan, budget plan, or report within 120 days after the receipt of a plan, budget plan, or report, the owner or operator may deem the plan, budget plan, or report rejected by operation of law. If the Agency rejects a plan, budget plan, or report or requires modifications, the written notification shall contain the following information, as applicable:

1) An explanation of the specific type of information, if any, that the Agency needs to complete the review;

2) An explanation of the Sections of the Act or regulations that may be violated if the plan, budget plan, or report is approved; and

3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the plan, budget plan, or report is approved.

c) For High Priority corrective action plans submitted by owners or operators not seeking payment from the Fund, the Agency may delay final action on such plans until 120 days after it receives the corrective action completion report required pursuant to Section 732.409 of this Part.

d) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete plan, budget plan, or report by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 60 days.

e) The Agency shall mail notices of final action on plans, budget plans, or reports by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed.

f) Any action by the Agency to reject or require modification, or rejection by failure to act, of a plan, budget plan, or report shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

g) In accordance with Sections 732.306 and 732.406 of this Part, upon the approval

of any budget plan by the Agency, the Agency shall include as part of the final notice to the owner or operator a notice of insufficient funds if the Fund does not contain sufficient funds to provide payment of the total costs approved in the budget plan.

Section 732.504 Selection of Plans or Reports for Full Review (Repealed)

Section 732.505 Standards for Review of Plans, Budget Plans, or Reports

a) A technical review shall consist of a detailed review of the steps proposed or completed to accomplish the goals of the plan and to achieve compliance with the Act and regulations. Items to be reviewed, if applicable, shall include, but not be limited to, number and placement of wells and borings, number and types of samples and analysis, results of sample analysis, and protocols to be followed in making determinations. The overall goal of the technical review for plans shall be to determine if the plan is sufficient to satisfy the requirements of the Act and regulations and has been prepared in accordance with generally accepted engineering practices or principles of professional geology. The overall goal of the technical review for reports shall be to determine if the plan has been fully implemented in accordance with generally accepted engineering practices or principles of professional geology, if the conclusions are consistent with the information obtained while implementing the plan, and if the requirements of the Act and regulations have been satisfied.

b) If the Licensed Professional Engineer or Licensed Professional Geologist certifies that there is no evidence that, through natural or manmade pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces, the Licensed Professional Engineer's or Licensed Professional Geologist's certification to that effect shall be presumed correct unless the Agency's review reveals objective evidence to the contrary.

c) A financial review shall consist of a detailed review of the costs associated with each element necessary to accomplish the goals of the plan as required pursuant to the Act and regulations. Items to be reviewed shall include, but are not limited to, costs associated with any materials, activities or services that are included in the budget plan. The overall goal of the financial review shall be to assure that costs associated with materials, activities and services shall be reasonable, shall be consistent with the associated technical plan, shall be incurred in the performance

of corrective action activities, shall not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and must not exceed the maximum payment amounts set forth in Subpart H of this Part.

SUBPART F: PAYMENT OR REIMBURSEMENT

Section 732.600 General

The Agency shall have the authority to review any application for payment or reimbursement and to authorize payment or reimbursement from the Fund or such other funds as the legislature directs for corrective action activities conducted pursuant to the Act and this Part 732. For purposes of this Part and unless otherwise provided, the use of the word "payment" shall include reimbursement. The submittal and review of applications for payment and the authorization for payment shall be in accordance with the procedures set forth in the Act and this Subpart F.

Section 732.601 Applications for Payment

a) An owner or operator seeking payment from the Fund shall submit to the Agency an application for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The owner or operator may submit an application for partial payment or final payment. Costs for which payment is sought must be approved in a budget plan, provided, however, that no budget plan shall be required for early action activities conducted pursuant to Subpart B of this Part other than free product removal activities conducted more than 45 days after confirmation of the presence of free product.

b) A complete application for payment shall consist of the following elements:

1) A certification from a Licensed Professional Engineer or a Licensed Professional Geologist acknowledged by the owner or operator that the work performed has been in accordance with a technical plan approved by the Agency or, for early action activities, in accordance with Subpart B of this Part;

2) A statement of the amounts approved in the corresponding budget plan and the amounts actually sought for payment along with a certified statement by the owner or operator that the amounts so sought have been

expended in conformance with the elements of a budget plan approved by the Agency;

3) A copy of the OSFM or Agency eligibility and deductibility determination;

4) Proof that approval of the payment requested will not exceed the limitations set forth in the Act and Section 732.604 of this Part;

5) A federal taxpayer identification number and legal status disclosure certification;

6) A private insurance coverage form;

7) A minority/women's business form;

8) Designation of the address to which payment and notice of final action on the application for payment are to be sent;

9) An accounting of all costs, including but not limited to, invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed; and

10) Proof of payment of subcontractor costs for which handling charges are requested. Proof of payment may include cancelled checks, lien waivers, or affidavits from the subcontractor.

c) The address designated on the application for payment may be changed only by subsequent notification to the Agency, on a form provided by the Agency, of a change in address.

d) Applications for payment and change of address forms shall be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

e) Applications for partial or final payment may be submitted no more frequently than once every 90 days.

f) Except for applications for payment for costs of early action conducted pursuant to Subpart B of this Part, other than costs associated with free product removal activities conducted more than 45 days after confirmation of the presence of free product, in no case shall the Agency review an application for payment unless there is an approved budget plan on file corresponding to the application for payment.

g) In no case shall the Agency authorize payment to an owner or operator in amounts greater than the amounts approved by the Agency in a corresponding budget plan. Revised cost estimates or increased costs resulting from revised procedures must be submitted to the Agency for review in accordance with Subpart E of this Part using amended budget plans as required under this Part.

h) Applications for payment of costs associated with site classification may not be submitted prior to approval or modification of the site classification completion report.

i) Applications for payment of costs associated with site classification, low priority groundwater monitoring, or high priority corrective action that was deferred pursuant to Section 732.306 or 732.406 of this Part may not be submitted prior to approval or modification of the corresponding site classification completion report, low priority groundwater monitoring completion report, or high priority corrective action completion report.

j) All applications for payment of corrective action costs must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part. For releases for which the Agency issued a No Further Remediation Letter prior to March 1, 2006, all applications for payment must be submitted no later than March 1, 2007.

Section 732.602 Review of Applications for Payment

a) At a minimum, the Agency must review each application for payment submitted pursuant to this Part to determine the following:

1) whether the application contains all of the elements and supporting documentation required by Section 732.601(b) of this Part;

2) for costs incurred pursuant to Subpart B of this Part, other than free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought are reasonable, and whether there is sufficient documentation to demonstrate that the work was completed in accordance with the requirements of this Part;

3) for costs incurred pursuant to Subpart C of this Part and free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought exceed the amounts approved in the corresponding budget plan, and whether there is sufficient documentation to demonstrate that the work was completed in accordance with the requirements of this Part and a plan approved by the Agency; and

4) Whether the amounts sought are eligible for payment.

b) When conducting a review of any application for payment, the Agency may require the owner or operator to submit a full accounting supporting all claims as provided in subsection (c) of this Section.

c) The Agency's review may include review of any or all elements and supporting documentation relied upon by the owner or operator in developing the application for payment, including but not limited to a review of invoices or receipts supporting all claims. The review also may include the review of any plans, budget plans, or reports previously submitted for the site to ensure that the application for payment is consistent with work proposed and actually performed in conjunction with the site.

d) Following a review, the Agency shall have the authority to approve, deny or require modification of applications for payment or portions thereof. The Agency shall notify the owner or operator in writing of its final action on any such application for payment. Except as provided in subsection (e) of this Section, if the Agency fails to notify the owner or operator of its final action on an application for payment within 120 days after the receipt of a complete application for payment, the owner or operator may deem the application for payment approved by operation of law. If the Agency denies payment for an application for payment or for a portion thereof or requires modification, the written notification shall contain the following information, as applicable:

1) An explanation of the specific type of information, if any, that the Agency needs to complete the review;

2) An explanation of the Sections of the Act or regulations that may be violated if the application for payment is approved; and

3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the application for payment is approved.

e) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete application for payment by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 30 days.

f) The Agency shall mail notices of final action on applications for payment by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed. The Agency shall mail notices of final action on applications for payment, and direct the Comptroller to mail payments to the owner or operator, at the address designated for receipt of payment in the application for payment or on a change of address form, provided by the Agency, submitted subsequent to submittal of the application for payment.

g) Any action by the Agency to deny payment for an application for payment or portion thereof or to require modification shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

Section 732.603 Authorization for Payment; Priority List

a) Within 60 days after notification to an owner or operator that the application for payment or a portion thereof has been approved by the Agency or by operation of law, the Agency shall forward to the Office of the State Comptroller in accordance with subsection (d) or (e) of this Section a voucher in the amount approved. If the owner or operator has filed an appeal with the Board of the Agency's final decision on an application for payment, the Agency shall have 60 days after the final resolution of the appeal to forward to the Office of the State Comptroller a voucher in the amount ordered as a result of the appeal. Notwithstanding the time limits imposed by this Section, the Agency shall not

forward vouchers to the Office of the State Comptroller until sufficient funds are available to issue payment.

b) The following rules shall apply regarding deductibles:

1) Any deductible, as determined by the OSFM or the Agency, shall be subtracted from any amount approved for payment by the Agency or by operation of law or ordered by the Board or courts;

2) Only one deductible shall apply per occurrence;

3) If multiple incident numbers are issued for a single site in the same calendar year, only one deductible shall apply for those incidents, even if the incidents relate to more than one occurrence; and

4) Where more than one deductible determination is made, the higher deductible shall apply.

c) The Agency shall instruct the Office of the State Comptroller to issue payment to the owner or operator at the address designated in accordance with Section 732.601(b)(8) or (c) of this Part. In no case shall the Agency authorize the Office of the State Comptroller to issue payment to an agent, designee, or entity that has conducted corrective action activities for the owner or operator.

d) For owners or operators who have deferred site classification or corrective action in accordance with Section 732.306 or 732.406 of this Part, payment shall be authorized from funds encumbered pursuant to Section 732.306(a)(6) or 732.406(a)(6) of this Part upon approval of the application for payment by the Agency or by operation of law.

e) For owners or operators not electing to defer site classification or corrective action in accordance with Section 732.306 or 732.406 of this Part, the Agency shall form a priority list for payment for the issuance of vouchers pursuant to subsection (a) of this Section.

1) All such applications for payment shall be assigned a date that is the date upon which the complete application for partial or final payment was received by the Agency. This date shall determine the owner's or operator's priority for payment in accordance with subsection (e)(2) of this

Section, with the earliest dates receiving the highest priority.

2) Once payment is approved by the Agency or by operation of law or ordered by the Board or courts, the application for payment shall be assigned priority in accordance with subsection (e)(1) of this Section. The assigned date shall be the only factor determining the priority for payment for those applications approved for payment.

Section 732.604 Limitations on Total Payments

a) Limitations per occurrence:

1) The Agency must not approve any payment from the Fund to pay an owner or operator for costs of corrective action incurred by the owner or operator in an amount in excess of $1,000,000 per occurrence.

2) The Agency must not approve any payment from the Fund to pay an owner or operator for costs of indemnification of the owner or operator in an amount in excess of $1,000,000 per occurrence.

b) Aggregate limitations:

1) Notwithstanding any other provision of this Part, the Agency must not approve payment to an owner or operator from the Fund for costs of corrective action or indemnification incurred during a calendar year in excess of the following amounts based on the number of petroleum underground storage tanks owned or operated by the owner or operator in Illinois:

Amount	Number of Tanks
$1,000,000	fewer than 101
$2,000,000	101 or more

2) Costs incurred in excess of the aggregate amounts set forth in subsection (b)(1) of this Section will not be eligible for payment in subsequent years.

c) *For purposes of* subsection (b) of this Section, *requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois*

shall be acted upon as claims from a single owner or operator [415 ILCS 5/57.8(d)(2)].

d) *For purposes of* subsection (b) of this Section, *owner or operator includes:*

1) *any subsidiary, parent, or joint stock company of the owner or operator*; *and*

2) *any company owned by any parent, subsidiary, or joint stock company of the owner or operator* [415 ILCS 5/57.8(d)(3)].

Section 732.605 Eligible Corrective Action Costs

a) Types of costs that may be eligible for payment from the Fund include those for corrective action activities and for materials or services provided or performed in conjunction with corrective action activities. Such activities and services may include but are not limited to reasonable costs for:

1) Early action activities conducted pursuant to Subpart B of this Part;

2) Engineer or geologist oversight services;

3) Remedial investigation and design;

4) Laboratory services necessary to determine site classification and whether the established remediation objectives have been met;

5) The installation and operation of groundwater investigation and groundwater monitoring wells;

6) The removal, treatment, transportation, and disposal of soil contaminated by petroleum at levels in excess of the established remediation objectives;

7) The removal, treatment, transportation, and disposal of water contaminated by petroleum at levels in excess of the established remediation objectives;

8) The placement of clean backfill to grade to replace excavated soil contaminated by petroleum at levels in excess of the established

remediation objectives;

9) Groundwater corrective action systems;

10) Alternative technology, including but not limited to feasibility studies approved by the Agency;

11) Recovery of free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water;

12) The removal and disposal of any UST if a release of petroleum from the UST was identified and IEMA was notified prior to its removal, with the exception of any UST deemed ineligible by the OSFM;

13) Costs incurred as a result of a release of petroleum because of vandalism, theft or fraudulent activity by a party other than an owner, operator or agent of an owner or operator;

14) Engineer or geologist costs associated with seeking payment from the Fund including, but not limited to, completion of an application for partial or final payment;

15) Costs associated with obtaining an Eligibility and Deductibility Determination from the OSFM or the Agency;

16) Costs for destruction and replacement of concrete, asphalt, or paving to the extent necessary to conduct corrective action if the concrete, asphalt, or paving was installed prior to the initiation of corrective action activities, the destruction and replacement has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer, and the destruction and replacement and its costs are approved by the Agency in writing prior to the destruction and replacement. The costs for destruction and replacement of concrete, asphalt, and paving must not be paid more than once. Costs associated with the replacement of concrete, asphalt, or paving must not be paid in excess of the cost to install, in the same area and to the same depth, the same material that was destroyed (e.g., replacing four inches of concrete with four inches of concrete);

17) The destruction or dismantling and reassembly of above grade structures in response to a release of petroleum if such activity has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer and such activity and its costs are approved by the Agency in writing prior to the destruction or dismantling and re-assembly. Such costs must not be paid in excess of a total $10,000 per occurrence. For purposes of this subsection (a)(17), destruction, dismantling, or reassembly of above grade structures does not include costs associated with replacement of pumps, pump islands, buildings, wiring, lighting, bumpers, posts, or canopies;

18) Preparation of reports submitted pursuant to Section 732.202(h)(3) of this Part, free product removal plans and associated budget plans, free product removal reports, site classification plans (including physical soil classification and groundwater investigation plans) and associated budget plans, site classification reports, groundwater monitoring plans and associated budget plans, groundwater monitoring completion reports, High Priority corrective action plans and associated budget plans, and High Priority corrective action completion reports;

19) Costs associated with the removal or abandonment of a potable water supply well, and replacement of the well or connection to a public water supply, whichever is less, if a Licensed Professional Engineer or Licensed Professional Geologist certifies that such activity is necessary to the performance of corrective action and that the property served by the well cannot receive an adequate supply of potable water from an existing source other than the removed or abandoned well, and the Agency approves such activity in writing. If the well being removed or abandoned is a public water supply well, the Licensed Professional Engineer or Licensed Professional Geologist is required to certify only that the removal or abandonment of the well is necessary to the performance of corrective action; and

20) Costs associated with the repair or replacement of potable water supply lines damaged to the point of requiring repair or replacement as a direct result of the release, if such activity is certified by a Licensed Professional Engineer or Licensed Professional Geologist as necessary for the protection of the potable water supply and approved by the Agency in writing.

b) An owner or operator may submit a budget plan or application for partial or final payment that includes an itemized accounting of costs associated with activities, materials or services not identified in subsection (a) of this Section if the owner or operator submits detailed information demonstrating that the activities, materials or services not identified in subsection (a) of this Section are essential to the completion of the minimum corrective action requirements of the Act and this Part.

Section 732.606 Ineligible Corrective Action Costs

Costs ineligible for payment from the Fund include but are not limited to:

a) Costs for the removal, treatment, transportation, and disposal of more than four feet of fill material from the outside dimensions of the UST, as set forth in Appendix C of this Part, during early action activities conducted pursuant to Section 732.202(f), and costs for the replacement of contaminated fill materials with clean fill materials in excess of the amounts set forth in Appendix C of this Part during early action activities conducted pursuant to Section 732.202(f) of this Part;

b) Costs or losses resulting from business interruption;

c) Costs incurred as a result of vandalism, theft or fraudulent activity by the owner or operator or agent of an owner or operator, including the creation of spills, leaks or releases;

d) Costs associated with the replacement of above grade structures such as pumps, pump islands, buildings, wiring, lighting, bumpers, posts or canopies, including but not limited to those structures destroyed or damaged during corrective action activities;

e) *Costs of corrective action incurred by an owner or operator prior to July 28, 1989* [415 ILCS 5/57.8(j)];

f) Costs associated with the procurement of a generator identification number;

g) Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part unless the owner or operator prevails before the Board

and the Board authorizes payment of such costs;

h) Purchase costs of non-expendable materials, supplies, equipment or tools, except that a reasonable rate may be charged for the usage of such materials, supplies, equipment or tools;

i) Costs associated with activities that violate any provision of the Act or Board, OSFM or Agency regulations;

j) Costs associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 732.105 of this Part and Section 57.12 of the Act;

k) Costs for removal, disposal or abandonment of a UST if the tank was removed or abandoned, or permitted for removal or abandonment, by the OSFM before the owner or operator provided notice to IEMA of a release of petroleum;

l) Costs associated with the installation of new USTs, the repair of existing USTs and removal and disposal of USTs determined to be ineligible by the Office of the State Fire Marshal;

m) Costs exceeding those contained in a budget plan or amended budget plan approved by the Agency;

n) Costs of corrective action incurred before providing notification of the release of petroleum to IEMA in accordance with Section 732.202 of this Part;

o) Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act;

p) Costs associated with improperly installed sampling or monitoring wells;

q) Costs associated with improperly collected, transported, or analyzed laboratory samples;

r) Costs associated with the analysis of laboratory samples not approved by the Agency;

s) Costs for any corrective activities, services or materials unless accompanied by a letter from OSFM or the Agency confirming eligibility and deductibility in accordance with Section 57.9 of the Act;

t) Interest or finance costs charged as direct costs;

u) Insurance costs charged as direct costs;

v) Indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs;

w) Costs associated with the compaction and density testing of backfill material;

x) Costs associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA;

y) Costs related to activities, materials or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act [415 ILCS 5] and regulations;

z) Costs incurred after completion of early action activities in accordance with Subpart B by owners or operators choosing, pursuant to Section 732.300(b) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;

aa) Costs incurred after completion of site classification activities in accordance with Subpart C by owners or operators choosing, pursuant to Section 732.400(b) or (c) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;

bb) Costs of alternative technology that exceed the costs of conventional technology;

cc) Costs for activities and related services or materials that are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services;

dd) Costs to prepare site classification plans and associated budget plans under Section 732.305 of this Part, to perform site classification under Section 732.307

of this Part, or to prepare site classification completion reports under Section 732.309 of this Part, for sites where owners or operators have elected to classify under Section 732.312 of this Part;

ee) Costs to prepare site classification plans and associated budget plans under Section 732.312 of this Part, to perform site classification under Section 732.312 of this Part, or to prepare site classification completion reports under Section 732.312 of this Part, for sites where owners or operators have performed classification activities under Sections 732.305, 732.307, or 732.309 of this Part;

ff) Costs requested that are based on mathematical errors;

gg) Costs that lack supporting documentation;

hh) Costs proposed as part of a budget plan that are unreasonable;

ii) Costs incurred during early action that are unreasonable;

jj) Costs incurred on or after the date the owner or operator enters the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release;

kk) Costs incurred after receipt of a No Further Remediation Letter for the occurrence for which the No Further Remediation Letter was received. This subsection (kk) does not apply to the following:

1) Costs incurred for MTBE remediation pursuant to Section 732.310(i)(2) of this Part;

2) Monitoring well abandonment costs;

3) County recorder or registrar of titles fees for recording the No Further Remediation Letter;

4) Costs associated with seeking payment from the Fund; and

5) Costs associated with remediation to Tier 1 remediation objectives on-site if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives in

response to the release;

ll) Handling charges for subcontractor costs that have been billed directly to the owner or operator;

mm) Handling charges for subcontractor costs when the contractor has not submitted proof of payment of the subcontractor costs;

nn) Costs associated with standby and demurrage;

oo) Costs associated with a corrective action plan incurred after the Agency notifies the owner or operator, pursuant to Section 732.405(f) of this Part, that a revised corrective action plan is required, provided, however, that costs associated with any subsequently approved corrective action plan will be eligible for payment if they meet the requirements of this Part;

pp) Costs incurred after the effective date of an owner's or operator's election to proceed in accordance with 35 Ill. Adm. Code 734;

qq) Costs associated with the preparation of free product removal reports not submitted in accordance with the schedule established in Section 732.203(a)(5) of this Part;

rr) Costs submitted more than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part;

ss) Costs for the destruction and replacement of concrete, asphalt, or paving, except as otherwise provided in Section 732.605(a)(16) of this Part;

tt) Costs incurred as a result of the destruction of, or damage to, any equipment, fixtures, structures, utilities, or other items during corrective action activities, except as otherwise provided in Section 732.605(a)(16) or (17) of this Part;

uu) Costs associated with oversight by an owner or operator;

vv) Handling charges charged by persons other than the owner's or operator's primary contractor;

ww) Costs associated with the installation of concrete, asphalt, or paving as an engineered barrier to the extent they exceed the cost of installing an engineered barrier constructed of asphalt four inches in depth. This subsection does not apply if the concrete, asphalt, or paving being used as an engineered barrier was replaced pursuant to Section 732.605(a)(16) of this Part;

xx) The treatment or disposal of soil that does not exceed the applicable remediation objectives for the release, unless approved by the Agency in writing prior to the treatment or disposal;

yy) Costs associated with the removal or abandonment of a potable water supply well, or the replacement of such a well or connection to a public water supply, except as otherwise provided in Section 732.605(a)(19) of this Part;

zz) Costs associated with the repair or replacement of potable water supply lines, except as otherwise provided in Section 732.605(a)(20) of this Part;

aaa) Costs associated with the replacement of underground structures or utilities, including but not limited to septic tanks, utility vaults, sewer lines, electrical lines, telephone lines, cable lines, or water supply lines, except as otherwise provided in Sections 732.605(a)(19) or (20) of this Part;

bbb) Costs associated with the maintenance, repair, or replacement of leased or subcontracted equipment, other than costs associated with routine maintenance that are approved in a budget plan;

ccc) Costs that exceed the maximum payment amounts set forth in Subpart H of this Part;

ddd) Costs associated with on-site corrective action to achieve remediation objectives that are more stringent than the Tier 2 remediation objectives developed in accordance with 35 Ill. Adm. Code 742. This subsection (ddd) does not apply if Karst geology prevents the development of Tier 2 remediation objectives for on-site remediation, or if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives on-site in response to the release;

eee) Costs associated with groundwater remediation if a groundwater ordinance already approved by the Agency for use as an institutional control in accordance

with 35 Ill. Adm. Code 742 can be used as an institutional control for the release being remediated.

Section 732.607 Payment for Handling Charges

Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table:

Subcontract or Field Purchase Cost:	Eligible Handling Charges as a Percentage of Cost:
$0 – $5,000	12%
$5,001 – $15,000	$600 + 10% of amt. over $5,000
$15,001 – $50,000	$1,600 + 8% of amt. over $15,000
$50,001 – $100,000	$4,400 + 5% of amt. over $50,000
$100,001 – $1,000,000	$6,900 + 2% of amt. over $100,000

Section 732.608 Apportionment of Costs

a) The Agency may apportion payment of costs if:

1) *The owner or operator was deemed eligible to access the Fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and*

2) *The owner or operator failed to justify all costs attributable to each underground storage tank at the site.* [415 ILCS 5/57.8(m)]

b) The Agency will determine, based on volume or number of tanks, which method of apportionment will be most favorable to the owner or operator. The Agency will notify the owner or operator of such determination in writing.

Section 732.609 Subrogation of Rights

Payment of any amount from the fund for corrective action or indemnification shall be subject to the State acquiring by subrogation the rights of any owner, operator, or other person to recover the costs of corrective action or indemnification for which the fund has compensated such owner, operator, or person from the person responsible or liable for the release [415 ILCS 5/57.8(h)].

Section 732.610 Indemnification

a) An owner or operator seeking indemnification from the Fund for payment of costs incurred as a result of a release of petroleum from an underground storage tank must submit to the Agency an application for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

1) A complete application for payment must contain the following:

A) A certified statement by the owner or operator of the amount sought for payment;

B) Proof of the legally enforceable judgment, final order, or determination against the owner or operator, or the legally enforceable settlement entered into by the owner or operator, for which indemnification is sought. The proof must include, but is not limited to, the following:

i) A copy of the judgment certified by the court clerk as a true and correct copy, a copy of the final order or determination certified by the issuing agency of State government or subdivision thereof as a true and correct copy, or a copy of the settlement certified by the owner or operator as a true and correct copy; and

ii) Documentation demonstrating that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from the UST for which the release was reported, and that the UST is owned or operated by the owner or operator;

C) A copy of the OSFM or Agency eligibility and deductibility determination;

D) Proof that approval of the indemnification requested will not exceed the limitations set forth in the Act and Section 732.604 of this Part;

E) A federal taxpayer identification number and legal status disclosure certification;

F) A private insurance coverage form; and

G) Designation of the address to which payment and notice of final action on the request for indemnification are to be sent to the owner or operator.

2) The owner's or operator's address designated on the application for payment may be changed only by subsequent notification to the Agency, on a form provided by the Agency, of a change of address.

3) Applications for payment must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

b) The Agency shall review applications for payment in accordance with this Subpart F. In addition, the Agency must review each application for payment to determine the following:

1) Whether the application contains all of the information and supporting documentation required by subsection (a) of this Section;

2) Whether there is sufficient documentation of a legally enforceable judgment entered against the owner or operator in a court of law, final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or settlement entered into by the owner or operator;

3) Whether there is sufficient documentation that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator; and

4) Whether the amounts sought for indemnification are eligible for payment.

c) If the application for payment of the costs of indemnification is deemed complete and otherwise satisfies all applicable requirements of this Subpart F, the Agency shall forward the request for indemnification to the Office of the Attorney General for review and approval in accordance with Section 57.8(c) of the Act. The owner or operator's request for indemnification shall not be placed on the priority list for payment until the Agency has received the written approval of the Attorney General. The approved application for payment shall then enter the priority list established at Section 732.603(e)(1) of this Part based on the date the complete application was received by the Agency in accordance with Section 57.8(c) of the Act.

d) Costs ineligible for indemnification from the Fund include, but are not limited to:

1) Amounts an owner or operator is not legally obligated to pay pursuant to a judgment entered against the owner or operator in a court of law, a final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or any settlement entered into by the owner or operator;

2) Amounts of a judgment, final order, determination, or settlement that do not arise out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator;

3) Amounts incurred prior to July 28, 1989;

4) Amounts incurred prior to notification of the release of petroleum to IEMA in accordance with Section 732.202 of this Part;

5) Amounts arising out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank for which the owner or operator is not eligible to access the Fund;

6) Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part unless the owner or operator prevails before the Board and the Board authorizes payment of such costs;

7) Amounts associated with activities that violate any provision of the Act or Board, OSFM, or Agency regulations;

8) Amounts associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 732.105 of this Part and Section 57.12 of the Act;

9) Amounts associated with a release that has not been reported to IEMA or is not required to be reported to IEMA;

10) Amounts incurred on or after the date the owner or operator enters the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release; and

11) Amounts incurred after the effective date of the owner's or operator's election to proceed in accordance with 35 Ill. Adm. Code 734.

Section 732.611 Costs Covered by Insurance, Agreement or Court Order

Costs of corrective action or indemnification incurred by an owner or operator which have been paid to an owner or operator under a policy of insurance, another written agreement, or a court order are not eligible for payment from the Fund. *An owner or operator who receives payment under a policy of insurance, another written agreement, or a court order shall reimburse the State to the extent such payment covers costs for which payment was received from the Fund*. (Section 57.8(e) of the Act)

Section 732.612 Determination and Collection of Excess Payments

a) If, for any reason, the Agency determines that an excess payment has been paid from the Fund, the Agency may take steps to collect the excess amount pursuant to subsection (c) of this Section.

1) Upon identifying an excess payment, the Agency shall notify the owner or operator receiving the excess payment by certified or registered mail, return receipt requested.

2) The notification letter shall state the amount of the excess payment and the basis for the Agency's determination that the payment is in error.

3) The Agency's determination of an excess payment shall be subject to appeal to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.

b) An excess payment from the Fund includes, but is not limited to:

1) Payment for a non-corrective action cost;

2) Payment in excess of the limitations on payments set forth in Sections 732.604 and 732.607 and Subpart H of this Part;

3) Payment received through fraudulent means;

4) Payment calculated on the basis of an arithmetic error;

5) Payment calculated by the Agency in reliance on incorrect information; or

6) Payment of costs that are not eligible for payment.

c) Excess payments may be collected using any of the following procedures:

1) Upon notification of the determination of an excess payment in accordance with subsection (a) of this Section or pursuant to a Board order affirming such determination upon appeal, the Agency may attempt to negotiate a payment schedule with the owner or operator. Nothing in this subsection (c)(1) of this Section shall prohibit the Agency from exercising at any time its options at subsection (c)(2) or (c)(3) of this Section or any other collection methods available to the Agency by law.

2) If an owner or operator submits a subsequent claim for payment after previously receiving an excess payment from the Fund, the Agency may deduct the excess payment amount from any subsequently approved payment amount. If the amount subsequently approved is insufficient to recover the entire amount of the excess payment, the Agency may use the procedures in this Section or any other collection methods available to the Agency by law to collect the remainder.

3) The Agency may deem an excess payment amount to be a claim or debt

owed the Agency, and the Agency may use the Comptroller's Setoff System for collection of the claim or debt in accordance with Section 10.5 of the "State Comptroller Act" [15 ILCS 405/10.05].

Section 732.614 Audits and Access to Records; Records Retention

a) Owners or operators that submit a report, plan, budget, application for payment, or any other data or document under this Part must maintain all books, records, documents, and other evidence directly pertinent to the report, plan, budget, application for payment, data, or document, including but not limited to all financial information and data used in the preparation or support of applications for payment. All books, records, documents, and other evidence must be maintained in accordance with accepted business practices and appropriate accounting procedures and practices.

b) The Agency or any of its duly authorized representatives must have access to the books, records, documents, and other evidence set forth in subsection (a) of this Section during normal business hours for the purpose of inspection, audit, and copying. Owners or operators must provide proper facilities for such access and inspection.

c) Owners or operators must maintain the books, records, documents, and other evidence set forth in subsection (a) of this Section and make them available to the Agency or its authorized representative until the latest of the following:

1) The expiration of 4 years after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part;

2) For books, records, documents, or other evidence relating to an appeal, litigation, or other dispute or claim, the expiration of 3 years after the date of the final disposition of the appeal, litigation, or other dispute or claim; or

3) The expiration of any other applicable record retention period.

SUBPART G: NO FURTHER REMEDIATION LETTERS
AND RECORDING REQUIREMENTS

Section 732.700 General

Subpart G provides the procedures for issuance of No Further Remediation Letters under Title XVI and this Part. Subpart G also sets forth the recording requirements and the circumstances under which the letter may be voidable.

Section 732.701 Issuance of a No Further Remediation Letter

a) Upon approval by the Agency of a report submitted pursuant to Section 732.202(h)(3) of this Part, a No Further Action site classification report, a Low Priority groundwater monitoring completion report, or a High Priority corrective action completion report, the Agency shall issue to the owner or operator a No Further Remediation Letter. The No Further Remediation Letter shall have the legal effect prescribed in Section 57.10 of the Act. The No Further Remediation Letter shall be denied if the Agency rejects or requires modification of the applicable report.

b) The Agency shall have 120 days after the date of receipt of a complete report to issue a No Further Remediation Letter and may include the No Further Remediation Letter as part of the notification of approval of the applicable report in accordance with Subpart E of this Part. If the Agency fails to send the No Further Remediation Letter within 120 days, it shall be deemed denied by operation of law.

c) The notice of denial of a No Further Remediation Letter by the Agency may be included with the notification of rejection or modification of the applicable report. The reasons for the denial shall be stated in the notification. The denial shall be considered a final determination appealable to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. If any request for a No Further Remediation Letter is denied by operation of law, in lieu of an immediate repeal to the Board the owner or operator may either resubmit the request and applicable report to the Agency or file a joint request for a 90 day extension in the manner provided for extensions of permit decision in Section 40 of the Act.

d) The Agency shall mail the No Further Remediation Letter by registered or certified mail, postmarked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the postmarked date that the letter is mailed.

e) The Agency at any time may correct errors in No Further Remediation Letters that arise from oversight, omission or clerical mistake. Upon correction of the No Further Remediation Letter, the Agency shall mail the corrected letter to the owner or operator as set forth in subsection (d) of this Section. The corrected letter shall be perfected by recording in accordance with the requirements of Section 732.703 of this Part.

Section 732.702 Contents of a No Further Remediation Letter

A No Further Remediation Letter issued pursuant to this Part shall include all of the following:

a) An acknowledgment that the requirements of the applicable report were satisfied;

b) A description of the location of the affected property by adequate legal description or by reference to a plat showing its boundaries, or, for purposes of Section 732.703(d) of this Part, other means sufficient to identify site location with particularity;

c) A statement that the remediation objectives were determined in accordance with 35 Ill. Adm. Code 742, and the identification of any land use limitation, as applicable, required by 35 Ill. Adm. Code 742 as a condition of the remediation objectives;

d) A statement that the Agency's issuance of the No Further Remediation Letter signifies that, except for *off-site contamination related to the occurrence that has not been remediated due to denial of access to the off-site property*:

1) *All corrective action requirements* under Title XVI of the Act and this Part *applicable to the occurrence have been complied with;*

2) *All corrective action concerning the remediation of the occurrence has been completed; and*

3) *No further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment* [415 ILCS 5/57.10(c)];

e) The prohibition under Section 732.703(e) of this Part against the use of any site in a manner inconsistent with any applicable land use limitation, without additional

appropriate remedial activities;

f) A description of any approved preventive, engineering, and institutional controls identified in the plan or report and notification that failure to manage the controls in full compliance with the terms of the plan or report may result in voidance of the No Further Remediation Letter;

g) The recording obligations pursuant to Section 732.703 of this Part;

h) The opportunity to request a change in the recorded land use pursuant to Section 732.703(e) of this Part;

i) Notification that further information regarding the site can be obtained from the Agency through a request under the Freedom of Information Act [5 ILCS 140]; and

j) Any other provisions agreed to by the Agency and the owner or operator.

Section 732.703 Duty to Record a No Further Remediation Letter

a) Except as provided in subsections (c) and (d) of this Section, an owner or operator receiving a No Further Remediation Letter from the Agency pursuant to this Subpart G shall submit the letter, with a copy of any applicable institutional controls (as set forth in 35 Ill. Adm. Code 742, Subpart J) proposed as part of a corrective action completion report, to the office of the recorder or the registrar of titles of the county in which the site is located within 45 days after receipt of the letter. The letter and any attachments shall be filed in accordance with Illinois law so that they form a permanent part of the chain of title for the site. Upon the lapse of the 45-day period for recording, pursuant to Section 732.704(a)(5) of this Part, the Agency may void an unrecorded No Further Remediation Letter for failure to record it in a timely manner.

b) Except as provided in subsections (c) and (d) of this Section, a No Further Remediation Letter shall be perfected upon the date of the official recording of such letter. The owner or operator shall obtain and submit to the Agency, within 30 days after the official recording date, a certified or otherwise accurate and official copy of the letter and any attachments as recorded. An unperfected No Further Remediation Letter is effective only as between the Agency and the owner or operator.

c) For sites located in a highway authority right-of-way, the following requirements shall apply:

1) In order for the No Further Remediation Letter to be perfected, the highway authority with jurisdiction over the right-of-way must enter into a Memorandum of Agreement (MOA) with the Agency. The MOA must include, but is not limited to:

A) The name of the site, if any, and any highway authority or Agency identifiers (e.g., incident number, Illinois inventory identification number);

B) The address of the site (or other description sufficient to identify the location of the site with certainty);

C) A copy of the No Further Remediation Letter for each site subject to the MOA;

D) Procedures for tracking sites subject to the MOA so that all highway authority offices and personnel whose responsibilities (e.g., land acquisition, maintenance, construction, utility permits) may affect land use limitations will have notice of any environmental concerns and land use limitations applicable to a site;

E) Provisions addressing future conveyances (including title or any lesser form of interest) or jurisdictional transfers of the site to any other agency, private person or entity and the steps that will be taken to ensure the long-term integrity of any land use limitations including, but not limited to, the following:

i) Upon creation of a deed, the recording of the No Further Remediation Letter and any other land use limitations requiring recording under 35 Ill. Adm. Code 742, with copies of the recorded instruments sent to the Agency within 30 days after recording;

ii) Any other arrangements necessary to ensure that property

that is conveyed or transferred remains subject to any land use limitations approved and implemented as part of the corrective action plan and the No Further Remediation Letter; and

iii) Notice to the Agency at least 60 days prior to any such intended conveyance or transfer indicating the mechanism(s) to be used to ensure that any land use limitations will be operated or maintained as required in the corrective action plan and No Further Remediation Letter; and

F) Provisions for notifying the Agency if any actions taken by the highway authority or its permittees at the site result in the failure or inability to restore the site to meet the requirements of the corrective action plan and the No Further Remediation Letter.

2) Failure to comply with the requirements of this subsection (c) may result in voidance of the No Further Remediation Letter pursuant to Section 732.704 of this Part as well as any other penalties that may be available.

d) For sites located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title, the following requirements shall apply:

1) To perfect a No Further Remediation Letter containing any restriction on future land use(s), the Federal Landholding Entity or Entities responsible for the site must enter into a Land Use Control Memorandum of Agreement (LUC MOA) with the Agency that requires the Federal Landholding Entity to do, at a minimum, the following:

A) Identify the location on the Federally Owned Property of the site subject to the No Further Remediation Letter. Such identification shall be by means of common address, notations in any available facility master land use plan, site specific GIS or GPS coordinates, plat maps, or any other means that identify the site in question with particularity;

B) Implement periodic site inspection procedures that ensure

oversight by the Federal Landholding Entities of any land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;

C) Implement procedures for the Federal Landholding Entities to periodically advise the Agency of continued compliance with all maintenance and inspection requirements set forth in the LUC MOA;

D) Implement procedures for the Federal Landholding Entities to notify the Agency of any planned or emergency changes in land use that may adversely impact land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;

E) Notify the Agency at least 60 days in advance of a conveyance by deed or fee simple title, by the Federal Landholding Entities, of the site or sites subject to the No Further Remediation Letter, to any entity that will not remain or become a Federal Landholding Entity, and provide the Agency with information about how the Federal Landholding Entities will ensure the No Further Remediation Letter is recorded on the chain of title upon transfer of the property; and

F) Attach to the LUC MOA a copy of the No Further Remediation Letter for each site subject to the LUC MOA.

2) To perfect a No Further Remediation letter containing no restriction(s) on future land use, the Federal Landholding Entity shall submit the letter to the Office of the Recorder or the Registrar of Titles of the county in which the site is located within 45 days after receipt of the letter. The letter shall be filed in accordance with Illinois law so it forms a permanent part of the chain of title. The Federal Landholding Entity shall obtain and submit to the Agency, within 30 days after recording, a copy of the letter demonstrating that the recording requirements have been satisfied.

3) Failure to comply with the requirements of this subsection (d) and the LUC MOA may result in voidance of the No Further Remediation Letter as well as any other penalties that may be available.

e) At no time shall any site for which a land use limitation has been imposed as a result of corrective action under this Part be used in a manner inconsistent with the land use limitation set forth in the No Further Remediation Letter. The land use limitation specified in the No Further Remediation Letter may be revised only by the perfecting of a subsequent No Further Remediation Letter, issued pursuant to Title XVII of the Act and regulations thereunder, following further investigation or remediation that demonstrates the attainment of objectives appropriate for the new land use.

Section 732.704 Voidance of a No Further Remediation Letter

a) The No Further Remediation Letter shall be voidable if site activities are not carried out in full compliance with the provisions of this Part, and 35 Ill. Adm. Code 742 where applicable, or the remediation objectives upon which the issuance of the No Further Remediation Letter was based. Specific acts or omissions that may result in voidance of the No Further Remediation Letter include, but shall not be limited to:

1) Any violations of institutional controls or land use restrictions, if applicable;

2) The failure of the owner or operator or any subsequent transferee to operate and maintain preventive, engineering and institutional controls;

3) Obtaining the No Further Remediation Letter by fraud or misrepresentation;

4) Subsequent discovery of indicator contaminants related to the occurrence upon which the No Further Remediation Letter was based which:

A) were not identified as part of the investigative or remedial activities upon which the issuance of the No Further Remediation Letter was based;

B) results in the following:

i) the site no longer satisfying the criteria of a No Further Action site classification;

ii) the site no longer satisfying the criteria of a Low Priority site classification;

iii) failing to meet the remediation objectives established for a High Priority site; and

C) pose a threat to human health or the environment;

5) Upon the lapse of the 45 day period for recording the No Further Remediation Letter, the failure to record and thereby perfect the No Further Remediation Letter in a timely manner;

6) The disturbance or removal of contamination left in place under an approved plan;

7) The failure to comply with the requirements of Section 732.703(c) and the Memorandum of Agreement entered in accordance with Section 732.703(c) for a site that is located in a highway authority right-of-way;

8) The failure to comply with the requirements of Section 732.703(d) and the LUC MOA entered in accordance with Section 732.703(d) for a site located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title;

9) The failure to comply with the requirements of Section 732.703(d) of this Part or the failure to record a No Further Remediation Letter perfected in accordance with Section 732.703(d) within 45 days following the transfer of the Federally Owned Property subject to the No Further Remediation Letter to any entity that will not remain or become a Federal Landholding Entity; or

10) The failure to comply with the notice or confirmation requirements of 35 Ill. Adm. Code 742.1015(b)(5) and (c).

b) If the Agency seeks to void a No Further Remediation Letter, it shall provide Notice of Voidance to the current title holder of the site and the owner or operator at his or her last known address.

1) The Notice of Voidance shall specify the cause for the voidance and describe the facts in support of the cause.

2) The Agency shall mail Notices of Voidance by registered or certified mail, date stamped with return receipt requested.

c) Within 35 days after receipt of the Notice of Voidance, the current title holder and owner or operator of the site at the time the No Further Remediation Letter was issued may appeal the Agency's decision to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.

d) If the Board fails to take final action within 120 days, unless such time period is waived by the petitioner, the petition shall be deemed denied and the petitioner shall be entitled to an appellate court order pursuant to subsection (d) of Section 41 of the Act. The Agency shall have the burden of proof in such action.

1) If the Agency's action is appealed, the action shall not become effective until the appeal process has been exhausted and a final decision is reached by the Board or courts.

A) Upon receiving a notice of appeal, the Agency shall file a Notice of lis pendens with the office of the recorder or the registrar of titles for the county in which the site is located. The notice shall be filed in accordance with Illinois law so that it becomes a part of the chain of title for the site.

B) If the Agency's action is not upheld on appeal, the Notice of lis pendens shall be removed in accordance with Illinois law within 45 days after receipt of the final decision of the Board or the courts.

2) If the Agency's action is not appealed or is upheld on appeal, the Agency shall submit the Notice of Voidance to the office of the recorder or the registrar of titles for the county in which the site is located. The Notice shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title for the site.

SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section 732.800 Applicability

a) Methods for Determining Maximum Amounts. This Subpart H provides three methods for determining the maximum amounts that can be paid from the Fund for eligible corrective action costs. All costs associated with conducting corrective action are grouped into the tasks set forth in Sections 732.810 through 732.850 of this Part.

1) The first method for determining the maximum amount that can be paid for each task is to use the maximum amounts for each task set forth in those Sections, and in Section 732.870. In some cases the maximum amounts are specific dollar amounts, and in other cases the maximum amounts are determined on a site-specific basis.

2) As an alternative to using the amounts set forth in Sections 732.810 through 732.850 of this Part, the second method for determining the maximum amounts that can be paid for one or more tasks is bidding in accordance with Section 732.855 of this Part. As stated in that Section, when bidding is used, if the lowest bid for a particular task is less than the amount set forth in Sections 732.810 through 732.850, the amount in Sections 732.810 through 732.850 of this Part may be used instead of the lowest bid.

3) The third method for determining maximum amounts that can be paid from the Fund applies to unusual or extraordinary circumstances. The maximum amounts for such circumstances can be determined in accordance with Section 732.860 of this Part.

b) The costs listed under each task set forth in Sections 732.810 through 732.850 of this Part identify only some of the costs associated with each task. They are not intended as an exclusive list of all costs associated with each task for the purposes of payment from the Fund.

c) This Subpart H sets forth only the methods that can be used to determine the maximum amounts that can be paid from the Fund for eligible corrective action costs. Whether a particular cost is eligible for payment must be determined in accordance with Subpart F of this Part.

Section 732.810 UST Removal or Abandonment Costs

Payment for costs associated with UST removal or abandonment of each UST must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the excavation, removal, disposal, and abandonment of UST systems.

UST Volume	Maximum Total Amount per UST
110 – 999 gallons	$2,100
1,000 – 14,999 gallons	$3,150
15,000 or more gallons	$4,100

Section 732.815 Free Product or Groundwater Removal and Disposal

Payment for costs associated with the removal and disposal of free product or groundwater must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the removal, transportation, and disposal of free product or groundwater, and the design, construction, installation, operation, maintenance, and closure of free product or groundwater removal systems.

a) Payment for costs associated with each round of free product or groundwater removal via hand bailing or a vacuum truck must not exceed a total of $0.68 per gallon or $200, whichever is greater.

b) Payment for costs associated with the removal of free product or groundwater via a method other than hand bailing or vacuum truck must be determined on a time and materials basis and must not exceed the amounts set forth in Section 732.850 of this Part. Such costs must include, but are not limited to, those associated with the design, construction, installation, operation, maintenance, and closure of free product and groundwater removal systems.

Section 732.820 Drilling, Well Installation, and Well Abandonment

Payment for costs associated with drilling, well installation, and well abandonment must not exceed the amounts set forth in this Section.

a) Payment for costs associated with each round of drilling must not exceed the following amounts. Such costs must include, but not be limited to, those associated with mobilization, drilling labor, decontamination, and drilling for the purposes of soil sampling or well installation.

Type of Drilling	Maximum Total Amount
Hollow-stem auger	greater of $23 per foot or $1,500
Direct-push platform	
− for sampling or other non-injection purposes	greater of $18 per foot or $1,200
− for injection purposes	greater of $15 per foot or $1,200

b) Payment for costs associated with the installation of monitoring wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

Type of Borehole	Maximum Total Amount
Hollow-stem auger	$16.50/foot (well length)
Direct-push platform	$12.50/foot (well length)

c) Payment for costs associated with the installation of recovery wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

Well Diameter	Maximum Total Amount
4 or 6 inches	$25/foot (well length)
8 inches or greater	$41/foot (well length)

d) Payment for costs associated with the abandonment of monitoring wells must not exceed $10 per foot of well length.

Section 732.825 Soil Removal and Disposal

Payment for costs associated with soil removal, transportation, and disposal must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives or visibly contaminated fill removed pursuant to Section 732.202(f) of this Part, and the purchase, transportation, and placement of material used to backfill the resulting excavation.

a) Payment for costs associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives, visibly contaminated fill removed pursuant to Section 732.202(f) of this Part, and concrete, asphalt, or paving overlying such contaminated soil or fill must not exceed a total of $57 per cubic yard.

1) Except as provided in subsection (a)(2) of this Section, the volume of soil removed and disposed of must be determined by the following equation, using the dimensions of the resulting excavation: (Excavation Length x Excavation Width x Excavation Depth) x 1.05. A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

2) The volume of soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 732.202(f) of this Part must be determined in accordance with Appendix C of this Part.

b) Payment for costs associated with the purchase, transportation, and placement of material used to backfill the excavation resulting from the removal and disposal of soil must not exceed a total of $20 per cubic yard.

1) Except as provided in subsection (b)(2) of this Section, the volume of backfill material must be determined by the following equation using the dimensions of the backfilled excavation: (Excavation Length x Excavation Width x Excavation Depth) x 1.05. A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

2) The volume of backfill material used to replace soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 732.202(f) of this Part must be determined in accordance with Appendix C of this Part.

c) Payment for costs associated with the removal and subsequent return of soil that does not exceed the applicable remediation objectives but whose removal is required in order to conduct corrective action must not exceed a total of $6.50 per cubic yard. The volume of soil removed and returned must be determined by the following equation using the dimensions of the excavation resulting from the removal of the soil: (Excavation Length x Excavation Width x Excavation Depth). A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

Section 732.830 Drum Disposal

Payment for costs associated with the purchase, transportation, and disposal of 55-gallon drums containing waste generated as a result of corrective action (e.g., boring cuttings, water bailed for well development or sampling, hand-bailed free product) must not exceed the following amounts or a total of $500, whichever is greater.

Drum Contents	Maximum Total Amount per Drum
Solid waste	$250
Liquid waste	$150

Section 732.835 Sample Handling and Analysis

Payment for costs associated with sample handling and analysis must not exceed the amounts set forth in Appendix D of this Part. Such costs must include, but are not limited to, those associated with the transportation, delivery, preparation, and analysis of samples, and the reporting of sample results. For laboratory analyses not included in this Section, the Agency may determine reasonable maximum payment amounts on a site-specific basis.

Section 732.840 Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures

a) Payment for costs associated with concrete, asphalt, and paving installed as an engineered barrier, other than replacement concrete, asphalt, and paving, must not exceed the following amounts. Costs associated with the replacement of concrete, asphalt, and paving used as an engineered barrier are subject to the maximum amounts set forth in subsection (b) of this Section instead of this subsection (a).

Depth of Material		Maximum Total Amount per Square Foot
Asphalt and paving –	2 inches	$1.65
	3 inches	$1.86
	4 inches	$2.38
Concrete –	any depth	$2.38

b) Payment for costs associated with the replacement of concrete, asphalt, and paving must not exceed the following amounts:

Depth of Material		Maximum Total Amount per Square Foot
Asphalt and paving –	2 inches	$1.65
	3 inches	$1.86
	4 inches	$2.38
	6 inches	$3.08
Concrete –	2 inches	$2.45
	3 inches	$2.93
	4 inches	$3.41
	5 inches	$3.89
	6 inches	$4.36
	8 inches	$5.31

For depths other than those listed in this subsection, the Agency must determine reasonable maximum payment amounts on a site-specific basis.

c) Payment for costs associated with the destruction or the dismantling and reassembly of above grade structures must not exceed the time and material amounts set forth in Section 732.850 of this Part. The total cost for the destruction or the dismantling and reassembly of above grade structures must not exceed $10,000 per site.

Section 732.845 Professional Consulting Services

Payment for costs associated with professional consulting will be reimbursed on a time and materials basis pursuant to Section 732.850. Such costs must include, but are not limited to, those associated with project planning and oversight; field work; field oversight; travel; per diem; mileage; transportation; vehicle charges; lodging; meals; and the preparation, review, certification, and submission of all plans, budget plans, reports, applications for payment, and other documentation.

Section 732.850 Payment on Time and Materials Basis

This Section sets forth the maximum amounts that may be paid when payment is allowed on a time and materials basis.

a) Payment for costs associated with activities that have a maximum payment amount set forth in other Sections of this Subpart H (e.g, sample handling and analysis, drilling, well installation and abandonment, or drum disposal) must not exceed the amounts set forth in those Sections, unless payment is made pursuant to Section 732.860 of this Part.

b) Maximum payment amounts for costs associated with activities that do not have a maximum payment amount set forth in other Sections of this Subpart H must be determined by the Agency on a site-specific basis, provided, however, that personnel costs must not exceed the amounts set forth in Appendix E of this Part. Personnel costs must be based upon the work being performed, regardless of the title of the person performing the work. Owners and operators seeking payment must demonstrate to the Agency that the amounts sought are reasonable.

BOARD NOTE: Alternative technology costs in excess of the costs of conventional technology are ineligible for payment from the Fund. See Sections 732.407(b) and 732.606(bb) of this Part.

Section 732.855 Bidding

As an alternative to the maximum payment amounts set forth in this Subpart H, one or more maximum payment amounts may be determined via bidding in accordance with this Section. Each bid must cover all costs included in the maximum payment amount that the bid is replacing.

a) A minimum of three written bids must be obtained. The bids must be based upon the same scope of work and must remain valid for a period of time that will allow the owner or operator to accept them upon the Agency's approval of the associated budget. Bids must be obtained only from persons qualified and able to perform the work being bid. Bids must not be obtained from persons in which the owner or operator, or the owner's or operator's primary contractor, has a financial interest.

b) The bids must be summarized on forms prescribed and provided by the Agency. The bid summary form, along with copies of the bid requests and the bids obtained, must be submitted to the Agency in the associated budget. If more than

the minimum three bids are obtained, summaries and copies of all bids must be submitted to the Agency.

c) The maximum payment amount for the work bid must be the amount of the lowest bid, unless the lowest bid is less than the maximum payment amount set forth in this Subpart H in which case the maximum payment amount set forth in this Subpart H must be allowed. The owner or operator is not required to use the lowest bidder to perform the work, but instead may use another person qualified and able to perform the work, including, but not limited to, a person in which the owner or operator, or the owner's or operator's primary consultant, has a direct or indirect financial interest. However, regardless of who performs the work, the maximum payment amount will remain the amount of the lowest bid.

Section 732.860 Unusual or Extraordinary Circumstances

If, as a result of unusual or extraordinary circumstances, an owner or operator incurs or will incur eligible costs that exceed the maximum payment amounts set forth in this Subpart H, the Agency may determine maximum payment amounts for the costs on a site-specific basis. Owners and operators seeking to have the Agency determine maximum payment amounts pursuant to this Section must demonstrate to the Agency that the costs for which they are seeking a determination are eligible for payment from the Fund, exceed the maximum payment amounts set forth in this Subpart H, are the result of unusual or extraordinary circumstances, are unavoidable, are reasonable, and are necessary in order to satisfy the requirements of this Part. Examples of unusual or extraordinary circumstances may include, but are not limited to, an inability to obtain a minimum of three bids pursuant to Section 732.855 of this Part due to a limited number of persons providing the service needed.

Section 732.865 Handling Charges

Payment of handling charges must not exceed the amounts set forth in Section 732.607 of this Part.

Section 732.870 Increase in Maximum Payment Amounts

The maximum payment amounts set forth in this Subpart H must be adjusted annually by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business.

a) The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest 1/100th. In no case must the inflation factor be more than five percent in a single year.

b) Adjusted maximum payment amounts must become effective on July 1 of each year and must remain in effect through June 30 of the following year. The first adjustment must be made on July 1, 2006 by multiplying the maximum payment amounts set forth in this Subpart H by the applicable inflation factor. Subsequent adjustments must be made by multiplying the latest adjusted maximum payment amounts by the latest inflation factor.

c) The Agency must post the inflation factors on its website no later than the date they become effective. The inflation factors must remain posted on the website in subsequent years to aid in the calculation of adjusted maximum payment amounts.

d) Adjusted maximum payment amounts must be applied as follows:

1) For costs approved by the Agency in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the Agency received the budget in which the costs were proposed. Once the Agency approves a cost, the applicable maximum payment amount for the cost must not be increased (e.g., by proposing the cost in a subsequent budget).

2) For costs not approved by the Agency in writing prior to the date the costs are incurred, including but not limited to early action costs, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred.

3) Owners and operators must have the burden of requesting the appropriate adjusted maximum payment amounts in budgets and applications for payment.

Section 732.875 Agency Review of Payment Amounts

At least every three years, the Agency must review the amounts set forth in this Subpart H and submit a report to the Board on whether the amounts are consistent with the prevailing market

rates. The report must identify amounts that are not consistent with the prevailing market rates and suggest changes needed to make the amounts consistent with the prevailing market rates. The Board must publish notice of receipt of the report in the Environmental Register and on the Board's web page.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

Section 732.APPENDIX A Indicator Contaminants

TANK CONTENTS	INDICATOR CONTAMINANTS
GASOLINE	Benzene
Leaded[1], unleaded, premium, and gasohol	Ethylbenzene
	Toluene
	Xylene
	Methyl tertiary butyl ether (MTBE)
MIDDLE DISTILLATE AND HEAVY ENDS	
aviation turbine fuels[1]	Benzene
jet fuels	Ethylbenzene
	Toluene
	Xylene
diesel fuels	Acenaphthene
gas turbine fuel oils	Anthracene
heating fuel oils	Benzo(a)anthracene
illuminating oils	Benzo(a)pyrene
kerosene	Benzo(b)fluoranthene
lubricants	Benzo(k)fluoranthene
liquid asphalt and dust laying oils	Chrysene
cable oils	Dibenzo(a,h)anthracene
crude oil, crude oil fractions	Fluoranthene
petroleum feedstocks	Fluorene
petroleum fractions	Indeno(1,2,3-c,d)pyrene
heavy oils	Naphthalene
transformer oils[2]	Pyrene
hydraulic fluids[3]	Acenaphthylene
petroleum spirits[4]	Benzo(g,h,i)perylene
mineral spirits[4], Stoddard solvents[4]	Phenanthrene
high-flash aromatic naphthas[4]	
VM&P naphthas[4]	
moderately volatile hydrocarbon solvents[4]	
petroleum extender oils[4]	
USED OIL	Screening sample[5]

[1] lead is also an indicator contaminant

[2] the polychlorinated biphenyl parameters listed in Appendix B are also indicator contaminants

[3] barium is also an indicator contaminant

[4] the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B are also indicator contaminants

[5] used oil indicator contaminants shall be based on the results of a used oil soil sample analysis – refer to Section 732.310(g)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

Section 732.APPENDIX B Additional Parameters

Volatiles
1. Benzene
2. Bromoform
3. Carbon tetrachloride
4. Chlorobenzene
5. Chloroform
6. Dichlorobromomethane
7. 1,2-Dichloroethane
8. 1,1-Dichloroethene
9. cis-1,2-Dichloroethylene
10. trans-1,2-Dichloroethylene
11. Dichloromethane (Methylene chloride)
12. 1,2-Dichloropropane
13. 1,3-Dichloropropylene (cis + trans)
14. Ethylbenzene
15. Styrene
16. Tetrachloroethylene
17. Toluene
18. 1,1,1-Trichloroethane
19. 1,1,2-Trichloroethane
20. Trichloroethylene
21. Vinyl chloride
22. Xylenes (total)

Base/Neutrals
1. Bis(2-chloroethyl)ether
2. Bis(2-ethylhexyl)phthalate
3. 1,2-Dichlorobenzene
4. 1,4-Dichlorobenzene
5. Hexachlorobenzene
6. Hexachlorocyclopentadiene
7. *n*-Nitrosodi-*n*-propylamine
8. *n*-Nitrosodiphenylamine
9. 1,2,4-Trichlorobenzene

Polynuclear Aromatics
1. Acenaphthene

2. Anthracene
3. Benzo(a)anthracene
4. Benzo(a)pyrene
5. Benzo(b)fluoranthene
6. Benzo(k)fluoranthene
7. Chrysene
8. Dibenzo(a,h)anthracene
9. Fluoranthene
10. Fluorene
11. Indeno(1,2,3-c,d)pyrene
12. Naphthalene
13. Pyrene
14. Acenaphthylene
15. Benzo(g,h,i)perylene
16. Phenanthrene

Metals (total inorganic and organic forms)

1. Arsenic
2. Barium
3. Cadmium
4. Chromium (total)
5. Lead
6. Mercury
7. Selenium

Polychlorinated Biphenyls

1. Polychlorinated Biphenyls (as Decachlorobiphenyl)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

Section 732.APPENDIX C Backfill Volumes

Volume of Tank in Gallons	Maximum amount of backfill material to be removed:	Maximum amount of backfill material to be replaced:
	Cubic yards	Cubic yards
< 285	54	56
285 to 299	55	57
300 to 559	56	58
560 to 999	67	70
1000 to 1049	81	87
1050 to 1149	89	96
1150 to 1999	94	101
2000 to 2499	112	124
2500 to 2999	128	143
3000 to 3999	143	161
4000 to 4999	175	198
5000 to 5999	189	219
6000 to 7499	198	235
7500 to 8299	206	250
8300 to 9999	219	268
10,000 to 11,999	252	312
12,000 to 14,999	286	357
>15,000	345	420

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

Section 732.APPENDIX D Sample Handling and Analysis

Chemical	Max. Total Amount per Sample
BETX Soil with MTBE	$85
BETX Water with MTBE	$81
COD (Chemical Oxygen Demand)	$30
Corrosivity	$15
Flash Point or Ignitability Analysis EPA 1010	$33
FOC (Fraction Organic Carbon)	$38
Fat, Oil, & Grease (FOG)	$60
LUST Pollutants Soil − analysis must include all volatile, base/neutral, polynuclear aromatic, and metal parameters listed in Appendix B of this Part	$693
Organic Carbon (ASTM-D 2974-87)	$33
Dissolved Oxygen (DO)	$24
Paint Filter (Free Liquids)	$14
PCB/Pesticides (combination)	$222
PCBs	$111
Pesticides	$140
PH	$14
Phenol	$34
Polynuclear Aromatics PNA, or PAH SOIL	$152
Polynuclear Aromatics PNA, or PAH WATER	$152
Reactivity	$68
SVOC − Soil (Semi-volatile Organic Compounds)	$313
SVOC − Water (Semi-volatile Organic Compounds)	$313
TKN (Total Kjeldahl) "nitrogen"	$44
TOC (Total Organic Carbon) EPA 9060A	$31
TPH (Total Petroleum Hydrocarbons)	$122
VOC (Volatile Organic Compound) − Soil (Non-Aqueous)	$175
VOC (Volatile Organic Compound) − Water	$169

Geo-Technical	
Bulk Density ASTM D4292/D2937	$22
Ex-Situ Hydraulic Conductivity/Permeability	$255
Moisture Content ASTM D2216-90/D4643-87	$12

Porosity	$30
Rock Hydraulic Conductivity Ex-Situ	$350
Sieve/Particle Size Analysis ASTM D422-63/D1140-54	$145
Soil Classification ASTM D2488-90/D2487-90	$68

Metals

Arsenic TCLP Soil	$16
Arsenic Total Soil	$16
Arsenic Water	$18
Barium TCLP Soil	$10
Barium Total Soil	$10
Barium Water	$12
Cadmium TCLP Soil	$16
Cadmium Total Soil	$16
Cadmium Water	$18
Chromium TCLP Soil	$10
Chromium Total Soil	$10
Chromium Water	$12
Cyanide TCLP Soil	$28
Cyanide Total Soil	$34
Cyanide Water	$34
Iron TCLP Soil	$10
Iron Total Soil	$10
Iron Water	$12
Lead TCLP Soil	$16
Lead Total Soil	$16
Lead Water	$18
Mercury TCLP Soil	$19
Mercury Total Soil	$10
Mercury Water	$26
Selenium TCLP Soil	$16
Selenium Total Soil	$16
Selenium Water	$15
Silver TCLP Soil	$10
Silver Total Soil	$10
Silver Water	$12
Metals TCLP Soil (a combination of all RCRA metals)	$103
Metals Total Soil (a combination of all RCRA metals)	$94
Metals Water (a combination of all RCRA metals)	$119

Soil preparation for Metals TCLP Soil (one fee per sample)	$79
Soil preparation for Metals Total Soil (one fee per sample)	$16
Water preparation for Metals Water (one fee per sample)	$11

Other

En Core® Sampler, purge-and-trap sampler, or equivalent sampling device	$10
Sample Shipping (*maximum total amount for shipping all samples collected in a calendar day)	$50*

Section 732.APPENDIX E Personnel Titles and Rates

Title	Degree Required	Ill. License Req'd.	Min. Yrs. Experience	Max. Hourly Rate
Engineer I	Bachelor's in Engineering	None	0	$75
Engineer II	Bachelor's in Engineering	None	2	$85
Engineer III	Bachelor's in Engineering	None	4	$100
Professional Engineer	Bachelor's in Engineering	P.E.	4	$110
Senior Prof. Engineer	Bachelor's in Engineering	P.E.	8	$130
Geologist I	Bachelor's in Geology or Hydrogeology	None	0	$70
Geologist II	Bachelor's in Geology or Hydrogeology	None	2	$75
Geologist III	Bachelor's in Geology or Hydrogeology	None	4	$88
Professional Geologist	Bachelor's in Geology or Hydrogeology	P.G.	4	$92
Senior Prof. Geologist	Bachelor's in Geology or Hydrogeology	P.G.	8	$110
Scientist I	Bachelor's in a Natural or Physical Science	None	0	$60
Scientist II	Bachelor's in a Natural or Physical Science	None	2	$65
Scientist III	Bachelor's in a Natural or Physical Science	None	4	$70
Scientist IV	Bachelor's in a Natural or Physical Science	None	6	$75
Senior Scientist	Bachelor's in a Natural or Physical Science	None	8	$85
Project Manager	None	None	8[1]	$90
Senior Project Manager	None	None	12[1]	$100
Technician I	None	None	0	$45
Technician II	None	None	2[1]	$50
Technician III	None	None	4[1]	$55
Technician IV	None	None	6[1]	$60
Senior Technician	None	None	8[1]	$65
Account Technician I	None	None	0	$35
Account Technician II	None	None	2[2]	$40
Account Technician III	None	None	4[2]	$45
Account Technician IV	None	None	6[2]	$50
Senior Acct. Technician	None	None	8[2]	$55
Administrative Assistant I	None	None	0	$25
Administrative Assistant II	None	None	2[3]	$30
Administrative Assistant III	None	None	4[3]	$35
Administrative Assistant IV	None	None	6[3]	$40
Senior Admin. Assistant	None	None	8[3]	$45

Draftperson/CAD I	None	None	0	$40
Draftperson/CAD II	None	None	2[4]	$45
Draftperson/CAD III	None	None	4[4]	$50
Draftperson/CAD IV	None	None	6[4]	$55
Senior Draftperson/CAD	None	None	8[4]	$60

[1] Equivalent work-related or college level education with significant coursework in the physical, life, or environmental sciences can be substituted for all or part of the specified experience requirements.

[2] Equivalent work-related or college level education with significant coursework in accounting or business can be substituted for all or part of the specified experience requirements.

[3] Equivalent work-related or college level education with significant coursework in administrative or secretarial services can be substituted for all or part of the specified experience requirements.

[4] Equivalent work-related or college level education with significant coursework in drafting or computer aided design ("CAD") can be substituted for all or part of the specified experience requirements.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Petroleum Underground Storage Tanks (Releases Reported On or After June 24, 2002)

2) Code Citation: 35 Ill. Adm. Code 734

3)

Section Numbers:	Proposed Action:
734.100	Amend
734.105	Amend
734.115	Amend
734.120	Amend
734.145	Amend
734.210	Amend
734.360	New
734.630	Amend
734.632	New
734.810	Amend
734.855	Amend
734.860	Amend

4) Statutory Authority: Implementing Sections 22.12 and 57 - 57.19 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/22.12, 27, 28, and 57 - 57.19]

5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency (IEPA) initiated this rulemaking by filing a proposal intended to update the Board's underground storage tank (UST) regulations to reflect the adoption of Public Act 96-908. Public Act 96-908 enacted a number of amendments to Title XVI of the Environmental Protection Act (Act), which addresses USTs.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: In the record of this rulemaking proceeding, IEPA stated that it "did not use a published study or research report in developing the proposed amendments" and therefore did not submit such material pursuant to the Board's procedural rules.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

American Society for Testing and Materials (ASTM) Standard D2487-10, Standard Practice for Classification of Soils for Engineering Purposes (United Soil Classification System) (January 1, 2010).

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

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

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may download copies of the Board's opinion and order from the Board's Web site at www.ipcb.state.il.us and may also request copies by calling the Clerk's office at 312-814-3620.

The Board will accept written public comment on this proposal for 45 days after the date of publication in the Illinois Register. Comments should refer to Docket R11-22 and be addressed to:

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: this rulemaking may impact any small business, small municipality, or not-for-profit corporation that owns or operates a UST or performs activities associated with the remediation of leaking USTs.

B) Reporting, bookkeeping or other procedures required for compliance: the proposed amendments to Part 734 require owners and operators subject to Title XVI of the Act to follow procedures similar in nature to those now in effect in that Part. To the extent that bidding procedures under Section 734.855 are more extensive than those now in effect, they are based upon statutory language adopted by the General Assembly in Public Act 96-908.

C) Types of Professional skills necessary for compliance: no professional skills beyond those currently required by the existing UST regulations applicable to affected sources will be required for compliance with proposed amendments to Part 734. To the extent that bidding procedures under Section 734.855 are more extensive than those now in effect, they are based upon statutory language adopted by the General Assembly in Public Act 96-908.

14) Regulatory Agenda on which this rulemaking was summarized: January 2011

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL
AND UNDERGROUND STORAGE TANK PROGRAMS

PART 734
PETROLEUM UNDERGROUND STORAGE TANKS
(RELEASES REPORTED ON OR AFTER JUNE 24, 2002)

SUBPART A: GENERAL

Section
734.100 Applicability
734.105 Election to Proceed under Part 734
734.110 Severability
734.115 Definitions
734.120 Incorporations by Reference
734.125 Agency Authority to Initiate Investigative, Preventive, or Corrective Action
734.130 Licensed Professional Engineer or Licensed Professional Geologist Supervision
734.135 Form and Delivery of Plans, Budgets, and Reports; Signatures and Certifications
734.140 Development of Remediation Objectives
734.145 Notification to the Agency of Field Activities
734.150 LUST Advisory Committee

SUBPART B: EARLY ACTION

Section
734.200 General
734.205 Agency Authority to Initiate
734.210 Early Action
734.215 Free Product Removal
734.220 Application for Payment of Early Action Costs

SUBPART C: SITE INVESTIGATION AND CORRECTIVE ACTION

Section
734.300 General
734.305 Agency Authority to Initiate
734.310 Site Investigation – General
734.315 Stage 1 Site Investigation

734.320 Stage 2 Site Investigation
734.325 Stage 3 Site Investigation
734.330 Site Investigation Completion Report
734.335 Corrective Action Plan
734.340 Alternative Technologies
734.345 Corrective Action Completion Report
734.350 Off-site Access
734.355 Status Report
734.360 Application of Certain TACO Provisions

SUBPART D: MISCELLANEOUS PROVISIONS

Section
734.400 General
734.405 Indicator Contaminants
734.410 Remediation Objectives
734.415 Data Quality
734.420 Laboratory Certification
734.425 Soil Borings
734.430 Monitoring Well Construction and Sampling
734.435 Sealing of Soil Borings and Groundwater Monitoring Wells
734.440 Site Map Requirements
734.445 Water Supply Well Survey
734.450 Deferred Site Investigation or Corrective Action; Priority List for Payment

SUBPART E: REVIEW OF PLANS, BUDGETS, AND REPORTS

Section
734.500 General
734.505 Review of Plans, Budgets, or Reports
734.510 Standards for Review of Plans, Budgets, or Reports

SUBPART F: PAYMENT FROM THE FUND

Section
734.600 General
734.605 Applications for Payment
734.610 Review of Applications for Payment
734.615 Authorization for Payment; Priority List

734.620 Limitations on Total Payments
734.625 Eligible Corrective Action Costs
734.630 Ineligible Corrective Action Costs
734.632 Eligible Corrective Action Costs Incurred After NFR Letter
734.635 Payment for Handling Charges
734.640 Apportionment of Costs
734.645 Subrogation of Rights
734.650 Indemnification
734.655 Costs Covered by Insurance, Agreement, or Court Order
734.660 Determination and Collection of Excess Payments
734.665 Audits and Access to Records; Records Retention

SUBPART G: NO FURTHER REMEDIATION LETTERS AND RECORDING REQUIREMENTS

Section
734.700 General
734.705 Issuance of a No Further Remediation Letter
734.710 Contents of a No Further Remediation Letter
734.715 Duty to Record a No Further Remediation Letter
734.720 Voidance of a No Further Remediation Letter

SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section
734.800 Applicability
734.810 UST Removal or Abandonment Costs
734.815 Free Product or Groundwater Removal and Disposal
734.820 Drilling, Well Installation, and Well Abandonment
734.825 Soil Removal and Disposal
734.830 Drum Disposal
734.835 Sample Handling and Analysis
734.840 Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures
734.845 Professional Consulting Services
734.850 Payment on Time and Materials Basis
734.855 Bidding
734.860 Unusual or Extraordinary Circumstances
734.865 Handling Charges

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

734.870 Increase in Maximum Payment Amounts
734.875 Agency Review of Payment Amounts

734.APPENDIX A Indicator Contaminants
734.APPENDIX B Additional Parameters
734.APPENDIX C Backfill Volumes
734.APPENDIX D Sample Handling and Analysis
734.APPENDIX E Personnel Titles and Rates

AUTHORITY: Implementing Sections 22.12 and 57.19 and authorized by Sections 5, 22, 27, and 57.14A of the Environmental Protection Act [415 ILCS 5/5, 22, 22.12, 27, 57.14A and 57.19].

SOURCE: Adopted in R04-22/23 at 30 Ill. Reg. 5090, effective March 1, 2006; amended in R07-17 at 31 Ill. Reg. 16150, effective November 21, 2007; amended in R11-22 at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 734.100 Applicability

a) This Part applies to owners or operators of any underground storage tank system used to contain petroleum and for which a release is reported to Illinois Emergency Management Agency (IEMA) ~~on or after March 1, 2006~~ in accordance with the Office of State Fire Marshal (OSFM) regulations. This Part does not apply to owners or operators of sites for which the OSFM does not require a report to IEMA or for which the OSFM has issued or intends to issue a certificate of removal or abandonment pursuant to Section 57.5 of the Act [415 ILCS 5/57.5].

1) For releases reported prior to June 8, 2010,~~on or after June 24, 2002, but prior to March 1, 2006, and for owners and operators electing prior to March 1, 2006 to proceed in accordance with Title XVI of the Act as amended by P.A. 92-0554,~~ the Agency may deem that one or more requirements of this Part have been satisfied, based upon activities conducted prior to June 8, 2010,~~March 1, 2006,~~ even though the activities were not conducted in strict accordance with the requirements of this Part. For example, an owner or operator that adequately defined the extent of on-site contamination prior to June 8, 2010~~March 1, 2006~~ may be deemed

to have satisfied Sections 734.210(h) and 734.315 even though sampling was not conducted in strict accordance with those Sections.

2) Costs incurred pursuant to a budget approved prior to March 1, 2006 must be reimbursed in accordance with the amounts approved in the budget and must not be subject to the maximum payment amounts set forth in Subpart H of this Part.

b) This Part *applies to all* releases subject to Title XVI of the Act *for which a No Further Remediation Letter is issued on or after* June 8, 2010*, provided that costs incurred prior to* June 8, 2010 *shall be payable from the UST Fund in the same manner as allowed under the law in effect at the time the costs were incurred and releases for which corrective action was completed prior to* June 8, 2010 *shall be eligible for a No Further Remediation Letter in the same manner as allowed under the law in effect at the time the corrective action was completed.* [415 ILCS 5/57.13] Costs incurred pursuant to a plan approved by the Agency prior to June 8, 2010 must be reviewed in accordance with the law in effect at the time the plan was approved. Any budget associated with such a plan must also be reviewed in accordance with the law in effect at the time the plan was approved. ~~Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to the proper State authority prior to June 24, 2002, may elect to proceed in accordance with this Part pursuant to Section 734.105 of this Part.~~

c) Upon the receipt of a corrective action order issued by the OSFM on or after June 24, 2002, and pursuant to Section 57.5(g) of the Act [415 ILCS 5/57.5(g)], where the OSFM has determined that a release poses a threat to human health or the environment, the owner or operator of any underground storage tank system used to contain petroleum and taken out of operation before January 2, 1974, or any underground storage tank system used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit, must conduct corrective action in accordance with this Part.

d) Owners or operators subject to this Part by law or by election must proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the No Further Remediation Letter signifying final disposition of the site for purposes of this Part. The Agency may use its authority pursuant to the Act and Section 734.125 of this Part to expedite investigative, preventive, or corrective action by an owner or operator or to initiate such action.

e) The following underground storage tank systems are excluded from the requirements of this Part:

1) Equipment or machinery that contains petroleum substances for operational purposes, such as hydraulic lift tanks and electrical equipment tanks.

2) Any underground storage tank system whose capacity is 110 gallons or less.

3) Any underground storage tank system that contains a de minimis concentration of petroleum substances.

4) Any emergency spill or overfill containment underground storage tank system that is expeditiously emptied after use.

5) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (~~[~~33 USC 1251 et seq. (1972))~~]~~.

6) Any UST system holding hazardous waste listed or identified under Subtitle C of the Solid Waste Disposal Act (~~[~~42 USC 3251 et seq.)~~]~~ or a mixture of such hazardous waste or other regulated substances.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 734.105 Election to Proceed under Part 734

~~a) Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to the proper State authority prior to June 24, 2002, may elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. Such election must be submitted on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format. Corrective action must then follow the requirements of this Part. The election must be effective upon receipt by the Agency and must not be withdrawn once made.~~

a)~~b)~~ Except as provided in Section 734.100(c) of this Part, owners or operators of underground storage tanks used exclusively to store heating oil for consumptive use on the premises where stored and that serve other than a farm or residential unit may elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. Such election must be submitted on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format. Corrective action must then follow the requirements of this Part. The election must be effective upon receipt by the Agency and must not be withdrawn once made.

b)~~c)~~ Owners and operators electing pursuant to this Section to proceed in accordance with this Part must submit with their election a summary of the activities conducted to date and a proposed starting point for compliance with this Part. The Agency must review and approve, reject, or modify the submission in accordance with the procedures contained in Subpart E of this Part. The Agency may deem a requirement of this Part to have been met, based upon activities conducted prior to an owner's or operator's election, even though the activities were not conducted in strict accordance with the requirement. For example, an owner or operator that adequately defined the extent of on-site contamination prior to the election may be deemed to have satisfied Sections 734.210(h) and 734.315 even though sampling was not conducted in strict accordance with those Sections.

~~d) If the owner or operator elects to proceed pursuant to this Part, corrective action costs incurred in connection with the release and prior to the notification of election must be payable from the Underground Storage Tank Fund in the same manner as was allowable under the law applicable to the owner or operator prior to the notification of election. Corrective action costs incurred after the notification of election must be payable from the Fund in accordance with this Part.~~

c)~~e)~~ This Section does not apply to any release for which the Agency has issued a No Further Remediation Letter.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 734.115 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the

context, the definitions of words or terms in this Part must be the same as those applied to the same words or terms in the Environmental Protection Act [415 ILCS 5].

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

"Agency" means the Illinois Environmental Protection Agency.

"Alternative Technology" means a process or technique, other than conventional technology, used to perform a corrective action with respect to soils contaminated by releases of petroleum from an underground storage tank.

"Board" means the Illinois Pollution Control Board.

"Bodily Injury" *means bodily injury, sickness, or disease sustained by a person, including death at any time, resulting from a release of petroleum from an underground storage tank* [415 ILCS 5/57.2].

"Community Water Supply" *means a public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents* [415 ILCS 5/3.145].

"Confirmation of a release" means the confirmation of a release of petroleum in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Confirmed Release" means a release of petroleum that has been confirmed in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Conventional Technology" means a process or technique to perform a corrective action by removal, transportation, and disposal of soils contaminated by a release of petroleum from an underground storage tank in accordance with applicable laws and regulations, but without processing to remove petroleum from the soils.

"Corrective Action" *means activities associated with compliance with the provisions of Sections 57.6 and 57.7* of the Act [415 ILCS 5/57.2].

"County highway" means county highway as defined in the Illinois Highway Code [605 ILCS 5].

"District road" means district road as defined in the Illinois Highway Code [605 ILCS 5].

"Environmental Land Use Control" means Environmental Land Use Control as defined in 35 Ill. Adm. Code 742.200.

"Federal Landholding Entity" means that federal department, agency, or instrumentality with the authority to occupy and control the day-to-day use, operation, and management of Federally Owned Property.

"Federally Owned Property" means real property owned in fee simple by the United States on which an institutional control is or institutional controls are sought to be placed in accordance with this Part.

"Fill Material" *means non-native or disturbed materials used to bed and backfill around an underground storage tank* [415 ILCS 5/57.2].

"Financial interest" means any ownership interest, legal or beneficial, or being in the relationship of director, officer, employee, or other active participant in the affairs of a party. Financial interest does not include ownership of publicly traded stock.

"Free Product" means a contaminant that is present as a non-aqueous phase liquid for chemicals whose melting point is less than 30° C (e.g., liquid not dissolved in water).

"Full Accounting" means a compilation of documentation to establish, substantiate, and justify the nature and extent of the corrective action costs incurred by an owner or operator.

"Fund" *means the Underground Storage Tank Fund* [415 ILCS 5/57.2].

"GIS" means Geographic Information System.

"GPS" means Global Positioning System.

"Groundwater" *means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure* [415 ILCS 5/3.210].

~~"Half-day" means four hours, or a fraction thereof, of billable work time. Half-days must be based upon the total number of hours worked in one calendar day. The total number of half-days per calendar day may exceed two.~~

"Handling Charges" means administrative, insurance, and interest costs and a reasonable profit for procurement, oversight, and payment of subcontracts and field purchases.

"Heating oil" *means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy or No. 6 technical grades of fuel oil; and other residual fuel oils including navy special fuel oil and bunker c* [415 ILCS 5/57.2].

"Highway authority" means the Illinois Department of Transportation *with respect to a State highway;* the Illinois State Toll Highway Authority with respect to a toll highway; *the county board with respect to a county highway or a county unit district road if a discretionary function is involved and the county superintendent of highways if a ministerial function is involved; the highway commissioner with respect to a township or district road not in a county or unit road district; or the corporate authorities of a municipality with respect to a municipal street* [605 ILCS 5/2-213].

"Highway Authority Agreement" means an agreement with a highway authority that meets the requirements of 35 Ill. Adm. Code 742.1020.

"IEMA" means the Illinois Emergency Management Agency.

"Indemnification" *means indemnification of an owner or operator for the amount of judgment entered against the owner or operator in a court of law, for the amount of any final order or determination made against the owner or operator by any agency of State government or any subdivision thereof, or for the amount of any settlement entered into by the owner or operator, if the judgment, order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator* [415 ILCS 5/57.2].

"Indicator contaminants" means the indicator contaminants set forth in Section 734.405 of this Part.

"Institutional Control" means a legal mechanism for imposing a restriction on land use as described in 35 Ill. Adm. Code 742.Subpart J.

"Land Use Control Memorandum of Agreement" means an agreement entered into between one or more agencies of the United States and the Illinois Environmental Protection Agency that limits or places requirements upon the use of Federally Owned Property for the purpose of protecting human health or the environment, or that is used to perfect a No Further Remediation Letter that contains land use restrictions.

"Licensed Professional Engineer" *means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering* [415 ILCS 5/57.2].

"Licensed Professional Geologist" *means a person licensed under the laws of the State of Illinois to practice as a professional geologist* [415 ILCS 5/57.2].

"Man-made Pathway" means a constructed route that may allow for the transport of mobile petroleum free-liquid or petroleum-based vapors including but not limited to sewers, utility lines, utility vaults, building foundations, basements, crawl spaces, drainage ditches, or previously excavated and filled areas.

"Monitoring Well" means a water well intended for the purpose of determining groundwater quality or quantity.

"Natural Pathway" means a natural route for the transport of mobile petroleum free-liquid or petroleum-based vapors including but not limited to soil, groundwater, sand seams and lenses, and gravel seams and lenses.

"Non-community water supply" *means a public water supply that is not a community water supply* [415 ILCS 5/3.145].

"Occurrence" *means an accident, including continuous or repeated exposure to conditions, that results in a sudden or nonsudden release from an underground storage tank* [415 ILCS 5/57.2].

"OSFM" means the Office of the State Fire Marshal.

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank. (Derived from 42 USC 6991)

BOARD NOTE: A person who voluntarily undertakes action to remove an underground storage tank system from the ground must not be deemed an "operator" merely by the undertaking of such action.

"Owner" means:

In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances;

In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such underground storage tank immediately before the discontinuation of its use; (Derived from 42 USC 6991)

Any person who has submitted to the Agency a written election to proceed under the underground storage tank program *and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "No Further Remediation Letter" by the Agency pursuant to* the underground storage tank program [415 ILCS 5/57.2].

"Perfect" or "Perfected" means recorded or filed for record so as to place the public on notice, or as otherwise provided in Sections 734.715(c) and (d) of this Part.

"Person" means, for the purposes of interpreting the definitions of the terms "owner" or "operator," an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and must include the United States Government and each department, agency, and instrumentality of the United States. (Derived from 42 USC 6991)

"Petroleum" means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute). (Derived from 42 USC 6991)

"*Potable*" *means generally fit for human consumption in accordance with accepted water supply principles and practices* [415 ILCS 5/3.340].

"Practical quantitation limit" or "PQL" means the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 734.120 of this Part. For filtered water samples, PQL also means the Method Detection Limit or Estimated Detection Limit in accordance with the applicable method revision in: "Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010; "Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA Publication No. EPA/600/R-94/111; "Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039; "Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129; or "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131, all of which are incorporated by reference at Section 734.120 of this Part.

"Property Damage" *means physical injury to, destruction of, or contamination of tangible property* owned by a person other than an owner or operator of the UST from which a release of petroleum has occurred and which tangible property is located off the site where the release occurred. Property damage includes *all resulting loss of use of that property; or loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a release of petroleum from an underground storage tank* [415 ILCS 5/57.2].

"Public Water Supply" *means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or*

intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply" [415 ILCS 5/3.365].

"Registration" means registration of an underground storage tank with the OSFM in accordance with Section 4 of the Gasoline Storage Act [430 ILCS 15/4].

"Regulated Recharge Area" *means a compact geographic area, as determined by the Board*~~,~~ (35 Ill. Adm. Code Subtitle F), *the geology of which renders a potable resource groundwater particularly susceptible to contamination* [415 ILCS 5/3.390].

"Regulated Substance" means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 USC 9601(14)) (but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (42 USC 6921 et seq.))~~,~~ and petroleum. (Derived from 42 USC 6991)

"Release" *means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils* [415 ILCS 5/57.2].

"Residential Property" means residential property as defined in 35 Ill. Adm. Code 742.200.

"Residential Tank" means an underground storage tank located on property used primarily for dwelling purposes.

"Residential Unit" means a structure used primarily for dwelling purposes including multi-unit dwellings such as apartment buildings, condominiums, cooperatives, or dormitories.

"Right-of-way" means *the land, or interest therein, acquired for or devoted to a highway* [605 ILCS 5/2-217].

"Setback Zone" *means a geographic area, designated pursuant to the Act* [415 ILCS 5/14.1, 5/14.2, 5/14.3] *or regulations* [35 Ill. Adm. Code Subtitle F],

containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwater [415 ILCS 5/3.450].

"Site" *means any single location, place, tract of land or parcel of property, including contiguous property not separated by a public right-of-way* [415 ILCS 5/57.2].

"State highway" means a State highway as defined in the Illinois Highway Code [605 ILCS 5].

"Street" means a street as defined in the Illinois Highway Code [605 ILCS 5].

"Surface Body of Water" or "Surface Water Body" means a natural or man-made body of water on the ground surface including but not limited to lakes, ponds, reservoirs, retention ponds, rivers, streams, creeks, and drainage ditches. Surface body of water does not include puddles or other accumulations of precipitation, run-off, or groundwater in UST excavations.

"Toll highway" means a toll highway as defined in the Toll Highway Act [605 ILCS 10].

"Township road" means a township road as defined in the Illinois Highway Code [605 ILCS 5].

"Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 per centum or more beneath the surface of the ground. Such term does not include any of the following or any pipes connected thereto:

Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

Septic tank;

Pipeline facility (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671 et seq.), or the

Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001 et seq.), or which is an intrastate pipeline facility regulated under State laws as provided in either of these provisions of law, and that is determined by the Secretary of Energy to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

Surface impoundment, pit, pond, or lagoon;

Storm water or waste water collection system;

Flow-through process tank;

Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated on or above the surface of the floor. (Derived from 42 USC ~~§~~ 6991)

The term "underground storage tank" shall also mean an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit [415 ILCS 5/57.2].

"UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Wellhead Protection Area" means the wellhead protection area of a community water supply well as determined under the Agency's wellhead protection program pursuant to 42 USC 300h-7.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 734.120 Incorporations by Reference

a) The Board incorporates the following material by reference:

ASTM. American Society for Testing and Materials, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959 (610) 832-9585

ASTM D2487-10, Standard Practice for Classification of Soils for Engineering Purposes (Unified Soil Classification System) (January 1, 2010)

~~ASTM D 2487-93, Standard Test Method for Classification of Soils for Engineering Purposes, approved September 15, 1993.~~

NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703) 605-6000 or (800) 553-6847

"Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010 (June 1991);

"Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA Publication No. EPA/600/R-94/111 (May 1994);

"Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039 (December 1988) (revised July 1991);

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129 (August 1992);

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131 (August 1995);

"Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, Third Edition (September 1986), as amended by Updates I, IIA, III, and IIIA (Final Update IIIA dated April 1998), Doc. No. 955-001-00000-1.

b) This Section incorporates no later editions or amendments.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 734.145 Notification to the Agency of Field Activities

The Agency may require owners and operators to notify the Agency of field activities prior to the date the field activities take place. The notice must include information prescribed by the Agency, and may include, but is not ~~be~~ limited to, a description of the field activities to be conducted, the person conducting the activities, and the date, time, and place the activities will be conducted. The Agency may, but is not required to, allow notification by telephone, facsimile, or electronic mail. This Section does not apply to activities conducted within 45 days plus 7~~14~~ days after initial notification to IEMA of a release, or to free product removal activities conducted within 45 days plus 14 days after the confirmation of the presence of free product.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART B: EARLY ACTION

Section 734.210 Early Action

a) Upon confirmation of a release of petroleum from a~~an~~ UST system in accordance with regulations promulgated by the OSFM, the owner or operator, or both, must perform the following initial response actions: ~~within 24 hours after the release:~~

1) Immediately report~~Report~~ the release to IEMA (e.g., by telephone or electronic mail);

BOARD NOTE: The OSFM rules for the reporting of UST releases are found at 41 Ill. Adm. Code 176.320(a).

2) Take immediate action to prevent any further release of the regulated substance to the environment; and

3) Immediately identify~~Identify~~ and mitigate fire, explosion and vapor hazards.

b) Within 20 days after initial notification to IEMA of a release plus 14 days, the owner or operator must perform the following initial abatement measures:

1) Remove as much of the petroleum from the UST system as is necessary to prevent further release into the environment;

2) Visually inspect any aboveground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils and groundwater;

3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);

4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner or operator must comply with 35 Ill. Adm. Code 722, 724, 725, and 807 through 815;

5) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with regulations promulgated by the OSFM. In selecting sample types, sample locations, and measurement methods, the owner or operator must consider the nature of the stored substance, the type of backfill, depth to groundwater and other factors as appropriate for identifying the presence and source of the release; and

6) Investigate to determine the possible presence of free product, and begin removal of free product as soon as practicable and in accordance with Section 734.215 of this Part.

c) Within 20 days after initial notification to IEMA of a release plus 14 days, the owner or operator must submit a report to the Agency summarizing the initial abatement steps taken under subsection (b) of this Section and any resulting information or data.

d) Within 45 days after initial notification to IEMA of a release plus 14 days, the owner or operator must assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in subsections (a) and (b) of this Section. This information must include, but is not limited to, the following:

1) Data on the nature and estimated quantity of release;

2) Data from available sources or site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions and land use;

3) Results of the site check required at subsection (b)(5) of this Section; and

4) Results of the free product investigations required at subsection (b)(6) of this Section, to be used by owners or operators to determine whether free product must be recovered under Section 734.215 of this Part.

e) Within 45 days after initial notification to IEMA of a release plus 14 days, the owner or operator must submit to the Agency the information collected in compliance with subsection (d) of this Section in a manner that demonstrates its applicability and technical adequacy.

f) *Notwithstanding any other corrective action taken, an owner or operator may, at a minimum, and prior to submission of any plans to the Agency, remove the tank system, or abandon the underground storage tank in place, in accordance with the regulations promulgated by the Office of the State Fire Marshal* (see 41 Ill. Adm. Code 160, 170, 180, 200). *The owner may remove visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen. For purposes of payment of early action costs, however, fill material shall not be removed in an amount in excess of 4 feet from the outside dimensions of the tank* [415 ILCS 5/57.6(b)]. Early action may also include disposal in accordance with applicable regulations or ex-situ treatment of contaminated fill material removed from within 4 feet from the outside dimensions of the tank.

g) For purposes of payment from the Fund, the activities set forth in subsection (f) of this Section must be performed within 45 days after initial notification to IEMA of a release plus 14 days, unless special circumstances, approved by the Agency in writing, warrant continuing such activities beyond 45 days plus 14 days. The owner or operator must notify the Agency in writing of such circumstances within 45 days after initial notification to IEMA of a release plus 14 days. Costs incurred beyond 45 days plus 14 days must be eligible if the Agency determines that they are consistent with early action.

BOARD NOTE: Owners or operators seeking payment from the Fund are to first notify IEMA of a suspected release and then confirm the release within 14 days to IEMA pursuant to regulations promulgated by the OSFM. See 41 Ill. Adm. Code 170.560 and 170.580. The Board is setting the beginning of the payment period at subsection (g) to correspond to the notification and confirmation to IEMA.

h) The owner or operator must determine whether the areas or locations of soil contamination exposed as a result of early action excavation (e.g., excavation boundaries, piping runs) or surrounding USTs that remain in place meet the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

1) At a minimum, for each UST that is removed, the owner or operator must collect and analyze soil samples as indicated in subsections (h)(1)(A) through (E). The Agency must allow an alternate location for, or excuse the collection of, one or more samples if sample collection in the following locations is made impracticable by site-specific circumstances.

A) One sample must be collected from each UST excavation wall. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified on a wall, the sample must be collected from the center of the wall length at a point located one-third of the distance from the excavation floor to the ground surface. For walls that exceed 20 feet in length, one sample must be collected for each 20 feet of wall length, or fraction thereof, and the samples must be evenly spaced along the length of the wall.

B) Two samples must be collected from the excavation floor below each UST with a volume of 1,000 gallons or more. One sample must be collected from the excavation floor below each UST with a volume of less than 1,000 gallons. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If areas of contamination cannot be identified, the samples must be collected from below each end of the UST if its volume is 1,000 gallons or more, and from below the center of the UST if its volume is less than 1,000 gallons.

C) One sample must be collected from the floor of each 20 feet of UST piping run excavation, or fraction thereof. The samples must be collected from a location representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a length of piping run excavation being sampled, the sample must be collected from the center of the length being sampled. For UST piping abandoned in place, the samples must be collected in accordance with subsection (h)(2)(B) of this Section.

D) If backfill is returned to the excavation, one representative sample of the backfill must be collected for each 100 cubic yards of backfill returned to the excavation.

E) The samples must be analyzed for the applicable indicator contaminants. In the case of a used oil UST, the sample that appears to be the most contaminated as a result of a release from the used oil UST must be analyzed in accordance with Section 734.405(g) of this Part to determine the indicator contaminants for used oil. The remaining samples collected pursuant to subsections (h)(1)(A) and (B) of this Section must then be analyzed for the applicable used oil indicator contaminants.

2) At a minimum, for each UST that remains in place, the owner or operator must collect and analyze soil samples as follows. The Agency must allow an alternate location for, or excuse the drilling of, one or more borings if drilling in the following locations is made impracticable by site-specific circumstances.

A) One boring must be drilled at the center point along each side of each UST, or along each side of each cluster of multiple USTs, remaining in place. If a side exceeds 20 feet in length, one boring must be drilled for each 20 feet of side length, or fraction thereof, and the borings must be evenly spaced along the side. The borings must be drilled in the native soil surrounding the USTs~~UST(s)~~ and as close practicable to, but not more than five feet from, the backfill material surrounding the USTs~~UST(s)~~. Each boring must be drilled to a depth of 30 feet below grade, or until groundwater

or bedrock is encountered, whichever is less. Borings may be drilled below the groundwater table if site specific conditions warrant, but no more than 30 feet below grade.

B) Two borings, one on each side of the piping, must be drilled for every 20 feet of UST piping, or fraction thereof, that remains in place. The borings must be drilled as close as practicable to, but not more than five feet from, the locations of suspected piping releases. If no release is suspected within a length of UST piping being sampled, the borings must be drilled in the center of the length being sampled. Each boring must be drilled to a depth of 15 feet below grade, or until groundwater or bedrock is encountered, whichever is less. Borings may be drilled below the groundwater table if site specific conditions warrant, but no more than 15 feet below grade. For UST piping that is removed, samples must be collected from the floor of the piping run in accordance with subsection (h)(1)(C) of this Section.

C) If auger refusal occurs during the drilling of a boring required under subsection (h)(2)(A) or (B) of this Section, the boring must be drilled in an alternate location that will allow the boring to be drilled to the required depth. The alternate location must not be more than five feet from the boring's original location. If auger refusal occurs during drilling of the boring in the alternate location, drilling of the boring must cease and the soil samples collected from the location in which the boring was drilled to the greatest depth must be analyzed for the applicable indicator contaminants.

D) One soil sample must be collected from each five-foot interval of each boring required under subsections (h)(2)(A) through (C) of this Section. Each sample must be collected from the location within the five-foot interval that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a five-foot interval, the sample must be collected from the center of the five-foot interval, provided, however, that soil samples must not be collected from soil below the groundwater table. All samples must be analyzed for the applicable indicator contaminants.

3) If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met, and if none of the criteria set forth in subsections (h)(4)(A) through (C) of this Section are met, within 30 days after the completion of early action activities the owner or operator must submit a report demonstrating compliance with those remediation objectives. The report must include, but not be limited to, the following:

A) A characterization of the site that demonstrates compliance with the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

B) Supporting documentation, including, but not limited to, the following:

i) A site map meeting the requirements of Section 734.440 of this Part that shows the locations of all samples collected pursuant to this subsection (h);

ii) Analytical results, chain of custody forms, and laboratory certifications for all samples collected pursuant to this subsection (h); and

iii) A table comparing the analytical results of all samples collected pursuant to this subsection (h) to the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

C) A site map containing only the information required under Section 734.440 of this Part.

4) If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have not been met, or if one or more of the following criteria are met, the owner or operator must continue in accordance with Subpart C of this Part:

A) There is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants

(e.g., as found during release confirmation or previous corrective action measures);

B) Free product that may impact groundwater is found to need recovery in compliance with Section 734.215 of this Part; or

C) There is evidence that contaminated soils may be or may have been in contact with groundwater, unless:

i) The owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping; and

ii) The Agency determines that further groundwater investigation is not necessary.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART C: SITE INVESTIGATION AND CORRECTIVE ACTION

Section 734.360 Application of Certain TACO Provisions

For purposes of payment from the Fund, corrective action activities required to meet the minimum requirements of this Part *shall include, but not be limited to, the following use of the Board's Tiered Approach to Corrective Action Objectives rules adopted under Title XVII of* the *Act* [415 ILCS 5/57.7(c)(3)(A)]:

a) *For the site where the release occurred, the use of Tier 2 remediation objectives that are no more stringent than Tier 1 remediation objectives.* [415 ILCS 5/57.7(c)(3)(A)(i)]

b) *The use of industrial/commercial property remediation objectives, unless the owner or operator demonstrates that the property being remediated is residential property or is being developed into residential property.* [415 ILCS 5/57.7(c)(3)(A)(ii)]

c) If a groundwater ordinance already approved by the Agency for use as an institutional control in accordance with 35 Ill. Adm. Code 742 can be used as an

institutional control for the release being remediated, the groundwater ordinance must be used as an institutional control, provided that the Agency may approve remediation to the extent necessary to remediate or prevent groundwater contamination of off-site property that is not subject to a groundwater ordinance already approved by the Agency for use as an institutional control.

d) If the use of a groundwater ordinance as an institutional control is not required pursuant to subsection (c) of this Section, another institutional control must be used in accordance with 35 Ill. Adm. Code 742 to address groundwater contamination at the site where the release occurred, provided that the Agency may approve remediation to the extent necessary to remediate or prevent groundwater contamination at off-site property that is not subject to a groundwater ordinance or other institutional control that it used to address groundwater contamination. Institutional controls used to comply with this subsection (d) include, but are not limited to, the following:

1) Groundwater ordinances that are not required to be used as institutional controls pursuant to subsection (c) of this Section.

2) No Further Remediation Letters that prohibit the use and installation of potable water supply wells at the site.

(Source: Added at 35 Ill. Reg. _____, effective _____)

SUBPART F: PAYMENT FROM THE FUND

Section 734.630 Ineligible Corrective Action Costs

Costs ineligible for payment from the Fund include, but are not limited to:

a) Costs for the removal, treatment, transportation, and disposal of more than four feet of fill material from the outside dimensions of the UST, as set forth in Appendix C of this Part, during early action activities conducted pursuant to Section 734.210(f) of this Part, and costs for the replacement of contaminated fill materials with clean fill materials in excess of the amounts set forth in Appendix C of this Part during early action activities conducted pursuant to Section 734.210(f) of this Part;

b) Costs or losses resulting from business interruption;

c) Costs incurred as a result of vandalism, theft, or fraudulent activity by the owner or operator or agent of an owner or operator, including the creation of spills, leaks, or releases;

d) Costs associated with the replacement of above grade structures such as pumps, pump islands, buildings, wiring, lighting, bumpers, posts, or canopies, including but not limited, to those structures destroyed or damaged during corrective action activities;

e) *Costs of corrective action incurred by an owner or operator prior to July 28, 1989* [415 ILCS 5/57.8(j)];

f) Costs associated with the procurement of a generator identification number;

g) Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part unless the owner or operator prevails before the Board and the Board authorizes payment of such costs;

h) Purchase costs of non-expendable materials, supplies, equipment, or tools, except that a reasonable rate may be charged for the usage of such materials, supplies, equipment, or tools;

i) Costs associated with activities that violate any provision of the Act or Board, OSFM, or Agency regulations;

j) Costs associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 734.125 of this Part and Section 57.12 of the Act;

k) Costs for removal, disposal, or abandonment of a UST if the tank was removed or abandoned, or permitted for removal or abandonment, by the OSFM before the owner or operator provided notice to IEMA of a release of petroleum;

l) Costs associated with the installation of new USTs, the repair of existing USTs, and removal and disposal of USTs determined to be ineligible by the OSFM;

m) Costs exceeding those contained in a budget or amended budget approved by the Agency;

n) Costs of corrective action incurred before providing notification of the release of petroleum to IEMA in accordance with Section 734.210 of this Part;

o) Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act;

p) Costs associated with improperly installed sampling or monitoring wells;

q) Costs associated with improperly collected, transported, or analyzed laboratory samples;

r) Costs associated with the analysis of laboratory samples not approved by the Agency;

s) Costs for any corrective action activities, services, or materials unless accompanied by a letter from OSFM or the Agency confirming eligibility and deductibility in accordance with Section 57.9 of the Act;

t) Interest or finance costs charged as direct costs;

u) Insurance costs charged as direct costs;

v) Indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs;

w) Costs associated with the compaction and density testing of backfill material;

x) Costs associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA;

y) Costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations;

z) Costs of alternative technology that exceed the costs of conventional technology;

aa) Costs for activities and related services or materials that are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services;

bb) Costs requested that are based on mathematical errors;

cc) Costs that lack supporting documentation;

dd) Costs proposed as part of a budget that are unreasonable;

ee) Costs incurred during early action that are unreasonable;

ff) Costs incurred on or after the date the owner or operator enters the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release;

gg) Costs incurred after receipt of a No Further Remediation Letter for the occurrence for which the No Further Remediation Letter was received. This subsection (gg) does not apply to the following:

1) Costs incurred for MTBE remediation pursuant to Section 734.405(i)(2) of this Part;

2) Monitoring well abandonment costs;

3) County recorder or registrar of titles fees for recording the No Further Remediation Letter;

4) Costs associated with seeking payment from the Fund; ~~and~~

5) Costs associated with remediation to Tier 1 remediation objectives on-site if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives in response to the release; and

6) Costs associated with activities conducted under Section 734.632 of this Part;

hh) Handling charges for subcontractor costs that have been billed directly to the owner or operator;

ii) Handling charges for subcontractor costs when the contractor has not submitted proof of payment of the subcontractor costs;

jj) Costs associated with standby and demurrage;

kk) Costs associated with a corrective action plan incurred after the Agency notifies the owner or operator, pursuant to Section 734.355(b) of this Part, that a revised corrective action plan is required, provided, however, that costs associated with any subsequently approved corrective action plan will be eligible for payment if they meet the requirements of this Part;

ll) Costs incurred prior to the effective date of an owner's or operator's election to proceed in accordance with this Part, unless such costs were incurred for activities approved as corrective action under this Part;

mm) Costs associated with the preparation of free product removal reports not submitted in accordance with the schedule established in Section 734.215(a)(5) of this Part;

nn) Costs submitted more than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part. This subsection (nn) does not apply to costs associated with activities conducted under Section 734.632 of this Part;

oo) Costs for the destruction and replacement of concrete, asphalt, or paving, except as otherwise provided in Section 734.625(a)(16) of this Part;

pp) Costs incurred as a result of the destruction of, or damage to, any equipment, fixtures, structures, utilities, or other items during corrective action activities, except as otherwise provided in Sections 734.625(a)(16) or (17) of this Part;

qq) Costs associated with oversight by an owner or operator;

rr) Handling charges charged by persons other than the owner's or operator's primary contractor;

ss) Costs associated with the installation of concrete, asphalt, or paving as an engineered barrier to the extent they exceed the cost of installing an engineered barrier constructed of asphalt four inches in depth. This subsection does not apply if the concrete, asphalt, or paving being used as an engineered barrier was replaced pursuant to Section 734.625(a)(16) of this Part;

tt) The treatment or disposal of soil that does not exceed the applicable remediation objectives for the release, unless approved by the Agency in writing prior to the treatment or disposal;

uu) Costs associated with the removal or abandonment of a potable water supply well, or the replacement of such a well or connection to a public water supply, except as otherwise provided in Section 734.625(a)(19) of this Part;

vv) Costs associated with the repair or replacement of potable water supply lines, except as otherwise provided in Section 734.625(a)(20) of this Part;

ww) Costs associated with the replacement of underground structures or utilities, including but not limited to septic tanks, utility vaults, sewer lines, electrical lines, telephone lines, cable lines, or water supply lines, except as otherwise provided in Sections 734.625(a)(19) or (20) of this Part;

xx) (Reserved)~~For sites electing under Section 734.105 of this Part to proceed in accordance with this Part, costs incurred pursuant to Section 734.210 of this Part;~~

yy) Costs associated with the maintenance, repair, or replacement of leased or subcontracted equipment, other than costs associated with routine maintenance that are approved in a budget;

zz) Costs that exceed the maximum payment amounts set forth in Subpart H of this Part;

aaa) Costs associated with on-site corrective action to achieve remediation objectives that are more stringent than the Tier 2 remediation objectives developed in accordance with 35 Ill. Adm. Code 742. This subsection (aaa) does not apply if Karst geology prevents the development of Tier 2 remediation objectives for on-site remediation, or if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives on-site in response to the release;~~.~~

bbb) Costs associated with groundwater remediation if a groundwater ordinance already approved by the Agency for use as an institutional control in accordance with 35 Ill. Adm. Code 742 can be used as an institutional control for the release being remediated;.

ccc) Costs associated with on-site corrective action to achieve Tier 2 remediation objectives that are more stringent than Tier 1 remediation objectives;

ddd) Costs associated with corrective action to achieve remediation objectives other than industrial/commercial property remediation objectives, unless the owner or operator demonstrates that the property being remediated is residential property or is being developed into residential property. This subsection (ddd) does not prohibit the payment of costs associated with remediation approved by the Agency pursuant to Section 734.360(c) or (d) of this Part to remediate or prevent groundwater contamination at off-site property;

eee) Costs associated with groundwater remediation if a groundwater ordinance must be used as an institutional control under Section 734.360(c) of this Part. This subsection (eee) does not prohibit the payment of costs associated with remediation approved by the Agency pursuant to Section 734.360(c) to remediate or prevent groundwater contamination at off-site property;

fff) Costs associated with on-site groundwater remediation if an institutional control is required to address on-site groundwater remediation under Section 734.360(d) of this Part. This subsection (fff) does not prohibit the payment of costs associated with remediation approved by the Agency pursuant to Section 734.360(d) to remediate or prevent groundwater contamination at off-site property.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 734.632 Eligible Corrective Action Costs Incurred After NFR Letter

Notwithstanding Section 734.630(gg) and (nn) of this Part, the *following shall be considered corrective action activities eligible for payment from the Fund even when an owner or operator conducts these activities after the issuance of a No Further Remediation Letter. Corrective action conducted under this Section and costs incurred under this Section must comply with the requirements of* Title XVI of the Act and this Part, including, but not limited to, requirements for the submission and Agency approval of corrective action plans and budgets, corrective action

completion reports, and applications for payment, provided that no plan, budget, or report is required for activities conducted pursuant to subsection (d) or (e) of this Section.

a) *Corrective action to achieve residential property remediation objectives if the owner or operator demonstrates that property remediated to industrial/commercial property remediation objectives pursuant to Section 57.7(c)(3)(A)(ii) of* the *Act* and Section 734.360(b) of this Part *is being developed into residential property.*

b) *Corrective action to address groundwater contamination if the owner or operator demonstrates that such action is necessary because a groundwater ordinance used as an institutional control pursuant to Section 57.7(c)(3)(A)(iii) of* the *Act* and Section 734.360(c) of this Part *can no longer be used as an institutional control.*

c) *Corrective action to address groundwater contamination if the owner or operator demonstrates that such action is necessary because an on-site groundwater use restriction used as an institutional control pursuant to Section 57.7(c)(3)(A)(iv) of* the *Act* and Section 734.360(d) of this Part *must be lifted in order to allow the installation of a potable water supply well due to public water supply service no longer being available for reasons other than an act or omission of the owner or operator.*

d) *The disposal of soil that does not exceed industrial/commercial property remediation objectives, but that does exceed Tier 1 residential property remediation objectives, if industrial/commercial property remediation objectives were used pursuant to Section 57.7(c)(3)(A)(ii) of* the *Act* and Section 734.360(b) of this Part *and the owner or operator demonstrates that the contamination is the result of the release for which the owner or operator is eligible to seek payment from the Fund and disposal of the soil is necessary as a result of construction activities conducted after the issuance of a No Further Remediation Letter on the site where the release occurred, including, but not limited to, the following: tank, line, or canopy repair, replacement, or removal; building upgrades; sign installation; and water or sewer line replacement.* Costs eligible for payment under this subsection (d) are the costs to transport the soil to a properly permitted disposal site and disposal site fees, and may include, but are not limited to, costs for: disposal site waste characterization sampling; disposal site authorization, scheduling, and coordination; field oversight; disposal fees; and preparation of applications for payment.

e) *The disposal of water exceeding groundwater remediation objectives that is removed from an excavation on the site where the release occurred if a groundwater ordinance is used as an institutional control pursuant to Section 57.7(c)(3)(A)(iii) of* the *Act* and Section 734.360(c) of this Part*, or if an on-site groundwater use restriction is used as an institutional control pursuant to Section 57.7(c)(3)(A)(iv)* of the Act and Section 734.360(d) of this Part *and the owner or operator demonstrates that the excavation is located within the measured or modeled extent of groundwater contamination resulting from the release for which the owner or operator is eligible to seek payment from the Fund and disposal of the groundwater is necessary as a result of construction activities conducted after the issuance of a No Further Remediation Letter on the site where the release occurred, including, but not limited to, the following: tank, line, or canopy repair, replacement, or removal; building upgrades; sign installation; and water or sewer line replacement.* [415 ILCS 5/57.19].

f) Consulting fees for corrective action conducted pursuant to subsections (a), (b), and (c) of this Section. Consulting fees shall be subject to Subpart H of this Part.

(Source: Added at 35 Ill. Reg. _____, effective _____)

SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section 734.810 UST Removal or Abandonment Costs

Payment for costs associated with ~~UST~~ removal ~~or abandonment~~ of each UST must not exceed the amounts set forth in this Section. Such costs must include, but not be limited to, those associated with the excavation, removal, and disposal~~, and abandonment~~ of UST systems.

UST Volume	Maximum Total Amount per UST
110 – 999 gallons	$2,100
1,000 – 14,999 gallons	$3,150
15,000 or more gallons	$4,100

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 734.855 Bidding

As an alternative to the maximum payment amounts set forth in this Subpart H, one or more maximum payment amounts may be determined via bidding in accordance with this Section. Each bid must cover all costs included in the maximum payment amount that the bid is replacing. Bidding is optional. Bidding is allowed *only if the owner or operator demonstrates that corrective action cannot be performed for amounts less than or equal to maximum payment* [415 ILCS 5/57.7(c)(3)(C)] set forth in this Part. Once a maximum payment amount is determined via bidding in accordance with this Section, the Agency may approve the maximum payment amount in amended budgets and other subsequent budgets submitted for the same incident.

a) Bidding must be *publicly-noticed, competitive, and sealed bidding that includes, at a minimum, the following:*

1) *The owner or operator must issue invitations for bids that include, at a minimum, a description of the work being bid and applicable contractual terms and conditions. The criteria on which the bids will be evaluated must be set forth in the invitation for bids. The criteria may include, but shall not be limited to, criteria for determining acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Criteria that will affect the bid price and be considered in the evaluation of a bid, such as discounts, shall be objectively measureable.*

A) The invitation for bids must include instructions and information concerning bid submission requirements, including but not limited to the time during which bids may be submitted, the address to which bids must be submitted, and the time and date set for opening of the bids. Invitations for bids may include, but shall not be limited to, contract terms and conditions, including but not limited to warranty and bonding or other security requirements, and qualification requirements, which may include, but shall not be limited to, factors to be considered in determining whether a bidder is responsible pursuant to subsection (d) of this Section. The time during which bids may be submitted must begin on the date the invitation for bids is issued and must end at the time and date set for opening of the bids. In no case shall the time for bid submission be less than 14 days.

B) Each bid must be stamped with the date and time of receipt, and stored unopened in a secure place until the time and date set for opening the bids. Bids must not be accepted from persons in which the owner or operator, or the owner's or operator's primary contractor, has a financial interest.

2) *At least 14 days prior to the date set in the invitation for the opening of bids, public notice of the invitation for bids must be published* by the owner or operator *in a local paper of general circulation for the area in which the site is located.* The owner or operator must also provide a copy of the public notice to the Agency. The notice must be received by the Agency at least 14 days prior to the date set in the invitation for the opening of bids.

3) *Bids must be opened publicly* by the owner or operator *in the presence of one or more witnesses at the time and place designated in the invitation for bids.*

A) *The name of each bidder, the amount of each bid, and other relevant information must be recorded and submitted to the Agency in the applicable budget* in accordance with subsection (b) of this Section.

B) *After selection of the winning bid, the winning bid and the record of each unsuccessful bid shall be open to public inspection.*

C) The person opening the bids may not serve as a witness. The names of the persons opening the bids and the names of all witnesses must be recorded and submitted to the Agency on the bid summary form required under subsection (b) of this Section.

4) *Bids must be unconditionally accepted* by the owner or operator *without alteration or correction. Bids must be evaluated based on the requirements set forth in the invitation for bids, which may include criteria for determining acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Criteria that will affect the bid price and be considered in the evaluation of a bid, such as discounts, shall be objectively measureable. The invitation for bids shall set forth the evaluation criteria to be used.*

5) *Correction or withdrawal of inadvertently erroneous bids before or after selection of the winning bid, or cancellation of winning bids based on bid mistakes, shall be allowed in accordance with* subsection (c) of this Section. *After bid opening, no changes in bid prices or other provisions of bids prejudicial to the owner or operator or fair competition shall be allowed. All decisions to allow the correction or withdrawal of bids based on bid mistakes shall be supported by a written determination made by the owner or operator.*

6) *The owner or operator shall select the winning bid with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. The winning bid and other relevant information must be recorded and submitted to the Agency in the applicable budget* in accordance with subsection (b) of this Section.

7) *All bidding documentation must be retained by the owner or operator for a minimum of 3 years after the costs bid are submitted in an application for payment, except that documentation relating to an appeal, litigation, or other disputed claim must be maintained until at least 3 years after the date of the final disposition of the appeal, litigation, or other disputed claim. All bidding documentation must be made available to the Agency for inspection and copying during normal business hours.* [415 ILCS 5/57.7(c)(3)(B)]

~~a) A minimum of three written bids must be obtained. The bids must be based upon the same scope of work and must remain valid for a period of time that will allow the owner or operator to accept them upon the Agency's approval of the associated budget. Bids must be obtained only from persons qualified and able to perform the work being bid. Bids must not be obtained from persons in which the owner or operator, or the owner's or operator's primary contractor, has a financial interest.~~

b) All~~The~~ bids must be summarized on forms prescribed and provided by the Agency. The bid summary forms~~form~~, along with copies of the invitation for bids, the public notice required under subsection (a)(2) of this Section, proof of publication of the notice, and each bid received,~~the bid requests and the bids obtained,~~ must be submitted to the Agency in the associated budget. ~~If more than~~

~~the minimum three bids are obtained, summaries and copies of all bids must be submitted to the Agency.~~

c) Corrections to bids are allowed only to the extent the corrections are not contrary to the best interest of the owner or operator and the fair treatment of other bidders. If a bid is corrected, copies of both the original bid and the revised bid must be submitted in accordance with subsection (b) of this Section along with an explanation of the corrections made.

1) Mistakes Discovered Before Opening. A bidder may correct mistakes discovered before the time and date set for opening of bids by withdrawing his or her bid and submitting a revised bid prior to the time and date set for opening of bids.

2) Mistakes Discovered After Opening of a Bid but Before Award of the Winning Bid

A) If the owner or operator knows or has reason to conclude that a mistake has been made, the owner or operator must request the bidder to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted.

B) If the mistake and the intended correct information are clearly evident on the face of the bid, the information shall be corrected and the bid may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid are typographical errors, errors extending unit prices, transportation errors, and mathematical errors.

C) If the mistake and the intended correct information are not clearly evident on the face of the bid, the low bid may be withdrawn if:

i) a mistake is clearly evident on the face of the bid but the intended correct bid is not similarly evident; or

ii) there is proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.

3) Mistakes shall not be corrected after selection of the winning bid unless the Agency determines that it would be unconscionable not to allow the mistake to be corrected (e.g., the mistake would result in a windfall to the owner or operator).

4) Minor informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation from the exact requirement of the invitation for bid, the correction or waiver of which would not be prejudicial to the owner or operator (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The owner or operator must waive the informalities or allow correction depending on which is in the owner's or operator's best interest.

d) For purposes of this Section, factors to be considered in determining whether a bidder is responsible include, but are not limited to, the following:

1) The bidder has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements;

2) The bidder is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;

3) The bidder has a satisfactory record of performance. Bidders who are or have been deficient in current or recent contact performance in dealing with the owner or operator or other clients may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the bidder; and

4) The bidder has a satisfactory record of integrity and business ethics. Bidders who are under investigation or indictment for criminal or civil actions that bear on the subject of the bid, or that create a reasonable inference or appearance of a lack of integrity on the part of the bidder, may be declared not responsible for the particular subject of the bid.

~~c) The maximum payment amount for the work bid must be the amount of the lowest bid, unless the lowest bid is less than the maximum payment amount set forth in this Subpart H, in which case the maximum payment amount set forth in this Subpart H must be allowed. The owner or operator is not required to use the lowest bidder to perform the work, but instead may use another person qualified and able to perform the work, including, but not limited to, a person in which the owner or operator, or the owner's or operator's primary consultant, has a direct or indirect financial interest. However, regardless of who performs the work, the maximum payment amount will remain the amount of the lowest bid.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 734.860 Unusual or Extraordinary Circumstances

If, as a result of unusual or extraordinary circumstances, an owner or operator incurs or will incur eligible costs that exceed the maximum payment amounts set forth in this Subpart H, the Agency may determine maximum payment amounts for the costs on a site-specific basis. Owners and operators seeking to have the Agency determine maximum payment amounts pursuant to this Section must demonstrate to the Agency that the costs for which they are seeking a determination are eligible for payment from the Fund, exceed the maximum payment amounts set forth in this Subpart H, are the result of unusual or extraordinary circumstances, are unavoidable, are reasonable, and are necessary in order to satisfy the requirements of this Part. ~~Examples of unusual or extraordinary circumstances include, but are not limited to, an inability to obtain a minimum of three bids pursuant to Section 734.855 of this Part due to a limited number of persons providing the service needed.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Loan Repayment Assistance for Dentists

2) Code Citation: 77 Ill. Adm. Code 580

3)

Section Numbers:	Proposed Action:
580.100	Amend
580.110	Amend
580.120	New
580.200	Amend
580.210	Amend
580.220	Amend
580.230	Amend
580.240	Amend
580.250	New

4) Statutory Authority: Loan Repayment Assistance for Dentists Act [110 ILCS 948]

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments will add several definitions. New language will be added regarding application requirements and terms of performance. Also, new sections will be added for administrative hearings and the applicable provisions of the Illinois Grant Funds Recovery Act.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

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

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

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

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

217/782-2043
e-mail: dph.rules@illinois.gov

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: the need for the rulemaking was not apparent when the Regulatory Agendas were prepared.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER g: GRANTS TO DENTAL AND MEDICAL STUDENTS

PART 580
LOAN REPAYMENT ASSISTANCE FOR DENTISTS

SUBPART A: GENERAL PROVISIONS

Section
580.100 Definitions
580.110 Incorporated and Referenced Materials
580.120 Administrative Hearings

SUBPART B: EDUCATIONAL LOAN REPAYMENT APPLICATION, ELIGIBILITY AND PROGRAM REQUIREMENTS

Section
580.200 Application
580.210 Eligibility
580.220 Grant Awards
580.230 Grant Terms and Obligations
580.240 Penalty for Failure to Fulfill Obligation
580.250 Grant Funds Recovery

AUTHORITY: Implementing and authorized by the Loan Repayment Assistance for Dentists Act [110 ILCS 948].

SOURCE: Adopted at 33 Ill. Reg. 7166, effective May 14, 2009; amended at 34 Ill. Reg. 20105, effective December 9, 2010; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 580.100 Definitions

"Act" means the Loan Repayment Assistance for Dentists Act [110 ILCS 948].

"Administrative law judge" shall have the meaning ascribed in the Department's Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

"Applicant" means a person who submits an application to the Department to receive a dental loan repayment assistance grant.

"Business day" means Monday through Friday. It does not include a federal or State government declared holiday, Saturday or Sunday.

"Calendar day" means all days in a month or prescribed time frame. It includes weekends and federal or State government declared holidays.

"Commercial lending institution" means a bank, credit union or financial company that makes loans.

"*Dental hygienist~~Hygienist~~*" *means a person who holds a* dental hygienist *license under the Illinois Dental Practice Act to perform dental services as authorized by Section 18 of the Illinois Dental Practice Act*. (Section 10 of the Act)~~.~~

"*Dental payments~~Payments~~*" *means compensation provided to dentists and dental specialists for services rendered under Article V of the Illinois Public Aid Code* [305 ILCS 5/Art. V], *the Covering ALL KIDS Health Insurance Act* [215 ILCS 170] *, or the Children's Health Insurance Program ~~Insurance~~ Act* [215 ILCS 106] administered by the Illinois Department of Healthcare and Family Services (HFS). (Section 10 of the Act)

"*Dental specialist~~Specialist~~*" *means a person who has received a license as a dentist in this State and who is trained and qualified to practice in one or more of the following specialties of dentistry: endodontics, oral and maxillofacial surgery, orthodontics, pedodontics, periodontics, and prosthodontics.* (Section 10 of the Act)

"*Dentist*" *means a person who has received a general license pursuant to Section 11(a) of the Illinois Dental Practice Act* [225 ILCS 25/11(a)], *who may perform any intraoral and extraoral procedure required in the practice of dentistry, and to whom* are *reserved the responsibilities specified in Section 17 of the Illinois Dental Practice Act.* (Section 10 of the Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"*Department*" *means the Department of Public Health.* (Section 10 of the Act)

"*Designated shortage area~~Shortage Area~~*" *means a* dental Health Professional *Shortage Area* (HPSA) *as defined by the United States Department of Health and Human Services* (Designation of Health Professional Shortage Areas (42 CFR 5, 51c) and the Public Health Service Act (42 USC 216, 254c)) *or as otherwise designated by the Department of Public Health.* (Section 10 of the Act)

"*Educational loans~~Loans~~*" *means higher education student loans that a person has incurred in attending a registered professional dental education program.* (Section 10 of the Act)

"Full-Time Practice" means a dental practice with a 40-hour work week where at least 32 hours of the 40 hours per week are spent providing clinical services. These services shall be conducted during normally scheduled clinic hours in the ambulatory care setting offices. The remaining hours shall be spent providing inpatient care and/or in practice-related administrative activities. The 40 hours per week may be compressed into no fewer than four days per week, with no more than 12 hours of work to be performed in any 24-hour period. Time spent in "on-call" status will not count toward the 40-hour week. Hours worked over the required 40 hours per week will not be applied to any other work week.

"Grant" means funds awarded under the Act.

"Grant agreement" means the agreement entered into between the Department and any person or entity for obligation, capital expenditure or use for a specific purpose.

"Grantee" means a *person or entity which may use grant funds* (Section 2(c) of the Illinois Grant Funds Recovery Act)~~refers to a person who is the recipient of a grant for educational loan repayment assistance under the Act and this Part~~.

"*Grant funds*" means *public funds dispensed* by the Department *to any person or entity for obligation, expenditure or use for a specific purpose.* (Section 2(b) of the Illinois Grant Funds Recovery Act)

"Grant period" means the duration of the loan repayment benefit, which is one year.

"Health Professional Shortage Area" or "HPSA" means a designation provided by the U.S. Department of Health and Human Services, Health Resources and Services Administration. The HPSA designation indicates the shortage of primary medical care, dental or mental health providers. The designation may be geographic (a county or service area), demographic (low income population) or institutional (comprehensive health center, FQHC~~federally qualified health center~~ or other public facility). HPSA designations can be found at http://hpsafind.hrsa.gov/.

"Health Professional Shortage Area Score" or "HPSA Score" means~~refers to~~ the HPSA shortage severity score calculated by the United States Department of Health and Human Services, Bureau of Health Professionals when a~~an~~ HPSA is federally designated. ~~This severity score provides a relative number of the amount of dental shortage in a geographic area.~~

"Illinois resident" means a person who has been a resident of Illinois for at least one year prior to applying for loan repayment assistance and is a citizen or lawful permanent resident of the United States.

"Lawful permanent resident" means a person who is not a citizen of the United States but who resides in the United States under legally recognized requirements and lawfully records his/her permanent residence.

"Low income person~~Income Person~~" means~~refers to~~ a person whose income is at or below ~~the~~ 200% of the federal poverty level guideline as determined by the most recent U.S. Census Bureau's decennial census information.

"Low income patients~~Income Patients~~" mean~~refers to the~~ patients in the dental practice whose income is at or below ~~the~~ 200% of the federal poverty level guideline as determined by the most recent U.S. Census Bureau's decennial census information.

"Medical assistance~~Assistance~~" means services for medical and dental assistance provided under Article V of the Illinois Public Aid Code.

"Medical assistance reimbursement documentation~~Assistance Reimbursement Documentation~~" means~~refers to~~ the documentation of medical assistance

reimbursement dollars that dentists receive from the Illinois Department of Healthcare and Family Services for dental services provided to medical assistance recipients. ~~The Department of Healthcare and Family Services periodically provides this data to the Department.~~

"Metropolitan Statistical Area" or "MSA" means one or more adjacent counties that have at least one urban core area of at least 50,000 in population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties.

"Program" means the educational loan repayment assistance program for dentists and dental specialists or dental hygienists established by the Department under the *Act.* (Section 10 of the Act)

"Registered professional dental education program~~Professional Dental Education Program~~" means a dental school accredited by the American Dental Association Commission on Dental Accreditation~~ (CODA)~~.

"Rural" means any geographic area not located in a U.S. Census Bureau Metropolitan Statistical Area; or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less; or a geographic area located within a Metropolitan Statistical Area but having a population of 2,500 or less.

"Service area~~Area~~" means~~refers to~~ the geographic area of the HPSA.

"Service term~~Term~~" means~~refers to~~ the length of time that the dentist, dental hygienist or dental specialist will receive loan repayment funds from the Department while serving a dental HPSA.

"Urban" means any geographic area that does not meet the definition of "rural" in this Section~~rural geographic area definition in this Part~~.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 580.110 Incorporated and Referenced Materials

The following are referenced or incorporated in this Part:

a) ~~The following~~ Illinois statutes ~~are referenced in this Part~~:

1) Loan Repayment Assistance for Dentists Act [110 ILCS 948]

2) Illinois Public Aid Code [305 ILCS 5]

3) Illinois Dental Practice Act [225 ILCS 25]

4) Children's Health Insurance Program Act [215 ILCS 106]

5) Covering ALL KIDS Health Insurance Act [215 ILCS 170]

6) Illinois Grant Funds Recovery Act [30 ILCS 705]

7) Illinois Administrative Procedure Act [5 ILCS 100]

b) Illinois rule: Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

c~~b~~) Federal statutes: ~~The following federal statute is referenced in this Part:~~

1) Designation of Health Professional Shortage Areas, section 332 of the Public Health Service Act (42 USC 254(e)).

2) Designation of Medically Underserved Areas, section 330(b)(3) of the Public Health Service Act (42 USC 254(b)(3)).

~~Public Health Service Act [42 USC 216, 254b and 254e]~~

d~~c~~) Federal regulation: ~~The following federal regulation is incorporated in this Part:~~

Designation of Health Professional Shortage Areas (42 CFR 5, 51c) (October 1, 2007)

e~~d~~) Incorporations by reference of federal regulations refer to the regulations on the date specified and do not include any later amendments or editions.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 580.120 Administrative Hearings

Administrative hearings conducted concerning the provisions of this Part shall be governed by the Department's Practice and Procedure in Administrative Hearings.

(Source: Added at 35 Ill. Reg. _____, effective _____)

SUBPART B: EDUCATIONAL LOAN REPAYMENT APPLICATION, ELIGIBILITY AND PROGRAM REQUIREMENTS

Section 580.200 Application

a) The~~*The*~~ *Department shall, each year, consider 4 applications for assistance under the program.* (Section 20 of the Act) The Department will review all applications received.

b) The Department will prepare and make available applications to eligible applicants.~~Applicants shall complete an application on forms available from the Department.~~ The applicant shall indicate the location of the dental practice in a designated shortage area where service will be performed.

c) Applicants shall document currently existing educational loan indebtedness to a governmental or commercial lending institution incurred for educational expenses in pursuit of the applicant's dental or dental hygienist degree. The documentation of indebtedness shall include a photocopy or original copy of promissory notes or other evidence of indebtedness with disclosure of the lending institution or agency, loan amount, loan period, ~~and~~ interest rate, and any amounts repaid prior to the date of submission of the application.

d) An applicant~~Applicants~~ shall demonstrate that he or she~~the applicant~~ meets all of the eligibility criteria in Section 580.210.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 580.210 Eligibility

a) Individuals who receive educational loan repayment assistance with federal funds or from loan funds requiring service commitments that would prevent the grantee from meeting the requirements of the Act and this Part are ineligible for assistance from this program.

b) *To be eligible for assistance under the program, an applicant must meet all of the following qualifications:*

1) *He or she must be a citizen or* lawful *permanent resident of the United States.*

2) *He or she must be a resident of this State.*

3) *He or she must be practicing full time in this State as a dentist, dental specialist, or dental hygienist.*

4) *He or she must currently be repaying educational loans.*

5) *He or she must accept dental payments as defined in* the *Act.*

6) *He or she must practice or commit to practice full time in this State in a designated shortage area.*

7) *He or she must allocate at least 20% of all patient appointments to patients covered by Article V of the Illinois Public Aid Code, the Covering ALL KIDS Health Insurance Act, or the Children's Health Insurance Program Act.* (Section 25 of the Act)

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 580.220 Grant Awards

a) For~~*For*~~ *each year that a qualified applicant* who is selected as a grantee~~receipient~~ *practices full time in this State in a designated shortage area as a dentist or dental specialist, the Department shall, subject to appropriation, award a grant to that person in an amount equal to the amount in educational loans that the person must repay that year. However, the total amount in grants that a person may be awarded under the program must not exceed $25,000 per year for a 4-year*

period. The Department shall require recipients to use the grants to pay off their educational loans. (Section 30(a) of the Act)

b) *The initial grant awarded to a dentist or dental specialist under* the *Act shall be for a 2-year period. Based on the successful completion of the initial 2-year grant, the grantees may be awarded up to 2 subsequent one-year grants. Grantees are eligible to receive grant funds for no more than a 4-year period. Previous grant recipients shall be given priority for years 3 and 4 grant funding, provided that the grantee continues to meet the eligibility requirements set forth in Section 25 of* the *Act* and Section 580.210. *Grantees shall practice full time in a designated shortage area for the period of each grant awarded.* (Section 30(c) of the Act)

c) *The Department shall award grants to otherwise eligible dental applicants by using the following criteria:*

1) *Dental specialist willing to practice in any designated shortage area.*

2) *Dentist willing to practice in a designated shortage area with the highest Health Professional Shortage Area (HPSA) score.*

3) *Dentist willing to practice in a designated shortage area with the highest HPSA score and agreeing to allocate the highest percentage of patient appointments to those that are covered by Article V of the Illinois Public Aid Code, the Covering ALL KIDS Health Insurance Act, or the Children's Health Insurance Program Act.* (Section 30(e) of the Act)

d) Grants will be awarded in the order listed in subsection (c)~~ of this Section~~. Dental specialists shall be the first group to receive funding. Once dental specialists are funded (or if no dental specialists apply) and if remaining funds allow, dentists ~~will receive funding~~ who fulfill the requirements of subsection (c)(2) will receive funding~~of this Section~~. If there are more dentists applying for assistance than available funds, the Department shall award funding to dentists who fulfill the requirements of subsection (c)(3)~~ of this Section~~.

e) For each year that a qualified applicant who is selected as a grantee~~recipient~~ practices full time in this State in an HPSA as a dental hygienist, the Department shall, subject to appropriation, award a grant to that person in an amount equal to

the amount in educational loans that the person must repay that year. However, the total amount in grants that a dental hygienist may be awarded under the program shall~~must~~ not exceed $5,000~~$25,000~~ per year for a two-year period. *The Department shall require a recipient to use the grants to pay off his or her educational loans.* (Section 30(c) of the Act)

f) Funds received from the Department~~Payments~~ shall be used for the repayment of educational loans, including principal, interest and related expenses of government and commercial loans~~, received by the individual~~ and used for tuition expenses while attending a registered professional dental education program.

g) The Department will award loan repayment grants to individuals who meet the eligibility requirements of Section 580.210. For dental specialists and dentists, awards will be made in accordance with the requirements of subsection (c). For dental hygienists, awards will be made once all awards to dental specialists and dentists are complete and if funds are available. If the amount of funding received for the program in a fiscal year is insufficient to award grants to all qualified dental hygienist applicants, the loan repayment grants shall be prorated to all dental hygienist grantees.~~accept applications for funding between July 1 and September 30 of each year. If enough eligible applications are received, all awards will be made.~~ If~~However, if~~ funds remain available after all loan repayment awards have been made, subsequent applications will be evaluated individually as received.

h) Payments shall be made on a quarterly basis to grantees~~grant recipients~~ following the completion of each three-month period of compliance with the terms of the grant agreement.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 580.230 Grant Terms and Obligations

a) Each dentist, dental specialist, or dental hygienist selected for educational loan repayment shall enter into a written grant agreement with the Department prior to receiving assistance. The agreement shall contain terms and conditions that ensure compliance with this Part and the laws of the State of Illinois, and enforcement of the agreement.

1) The grant agreement shall contain, at a minimum, the following:

A) Identifying information of the grantee, including name, mailing address, phone number and e-mail address;

B) A description of the grant's purpose;

C) Specific information on how payments to the grantee will be made;

D) Details on what constitutes permissible expenditure of grant funds;

E) Financial controls applicable to the grant; and

F) The time frame within which the grant is valid, including the time frame during which grant funds can be expended.

2) Grants are effective on the date that a grant agreement is executed between the Department and the grantee.

A) A grant is valid for the time frame outlined in the grant agreement.

B) The Department will deem a grant agreement null and void if the grantee does not fulfill the requirements stipulated in the agreement.

C) Grants are not assignable or transferable. Any assignment or transfer shall render the grant agreement null and void.

b) Grantees shall complete service in the HPSA designated in their application. Grantees who wish to move their practice from the location described in their~~the grantee's~~ original application and retain status as a grantee~~recipient~~ shall receive written approval from the Department prior to relocating and shall relocate to an area that qualifies for the same or a higher HPSA score. Without prior approval from the Department, time in a practice location will not count toward the grantee's service obligation.

c) Grants are effective on the date that a grant agreement is executed between the Department and the grantee.

1) A grant is valid for the time frame outlined in the grant agreement.

2) The Department will deem a grant agreement null and void if the grantee does not fulfill the requirements stipulated in the grant agreement.

3) Grants are not assignable or transferable. Any assignment or transfer shall render the grant agreement null and void.

d~~c~~) Every three months from the date the grant agreement is executed, the grantee shall submit a report to the Department that documents compliance with the terms and conditions of the grant agreement. The report shall contain the following~~Mandatory reporting requirements every six months include~~:

1) The ~~grantee shall provide documentation of the~~ percentage of low income patients served in his or her practice. Medical assistance reimbursement documentation and practice documentation will be accepted for this purpose.

2) The ~~grantee shall provide documentation that the~~ amount of money paid for educational loan debt. Documentation shall demonstrate that the amount of money paid is greater than or equal to the amount of money paid by the Department under this program. Cancelled checks or documentation from the lending institution will be accepted for this purpose.

e~~d~~) For dentists and dental specialists, the grant program allows~~administered under this Part will allow~~ for an initial two-year grant and two additional one-year grants. Grantees cannot receive grant funds after the four-year time frame has elapsed~~are eligible to receive grant funds for no more than a four-year period~~. Previous grantees shall receive priority for years three and four of grant funding, provided that:

1) The grantee successfully completes the initial two-year grant; and

2) The grantee continues to meet the eligibility requirements stipulated in Section 25 of the Act and Section 580.210.

f~~e~~) *The grant award for a dental hygienist shall be for a maximum of 2 years.* (Section 30(c) of the Act)

g) If the grantee is disabled or is otherwise unable for reasons beyond the grantee's control to perform the loan repayment obligations, these obligations shall be suspended until the grantee is able to resume the loan repayment obligations. However, the suspension shall not exceed two years.

1) To request a suspension of the loan repayment obligation, a grantee shall submit a suspension request in writing to the Department. This request shall detail the reason for the suspension and, if temporary, the duration of the suspension and shall be supported by clear and convincing documentation.

2) The Department shall approve a request for suspension if the request is supported by a letter from the grantee's licensed physician fully explaining and attesting to the grantee's inability (either temporarily or permanently) to continue the loan repayment obligation.

3) If the Department denies the suspension request, the grantee shall fulfill the loan repayment obligation.

4) Based on the information contained in the suspension request, the Department's acceptance or denial of the request will be provided in writing, under the Director's signature.

5) If the grantee suffers total and permanent disability, is adjudicated as incompetent or dies, the grantee shall be discharged from all obligations to the Department in connection with this Part and the Act.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 580.240 Penalty for Failure to Fulfill Obligation

a) If the~~Upon breach of~~ grant agreement is breached, *loan repayment recipients shall repay the Department a sum equal to the amount received under the program, plus* an annual percentage rate (APR) of 7% *interest.* (Section 35 of the Act)

Repayment of the obligation shall be made as agreed to by the grantee and the Department in the grantee's agreement and in accordance with Section 580.250.

~~b) The grantee shall repay all funds provided by the Department under this Part within a period of time equal to the grantee's service term.~~

b~~c~~) A breach of grant agreement shall include, but not be limited to, the ~~following situations~~:

1) Failure to practice *full time*~~full-time~~ *in a designated shortage area* at the location specified and for the time period required in the grant agreement (Sections 30(c) and~~Section~~ 35 of the Act);

2) Relocation to an area that has a lower priority ranking as a designated shortage area;

3) Material misstatement in reporting information to the Department, for example, misstating the percentage of low income patients served;

4) Making any material misrepresentation to the Department for the purpose of obtaining a grant;

5) Failure to allocate at least 20% of all patient appointments as required by Section 25 of the Act and Section 580.210(b)(7).~~Failure to practice *in a designated shortage area for two years.* (Section 35 of the Act)~~

c) When the Department determines that the grant agreement has not been fulfilled and all applicable requirements of Section 580.250 have been met, the Department and grantee shall enter into a contract for the repayment of the obligation.

1) To fulfill the repayment requirements of the Act and this Section, the grantee shall have 30 calendar days after the conclusion of all applicable requirements of Section 580.250 to enter into a contract with the Department.

2) Payment shall be made in equal monthly installments in amounts so that all sums due shall be paid within a period of time equal to the grantee's

service term, or remaining portion thereof, or as otherwise approved by the Department.

d) If the grantee does not repay all funds owed to the Department within the required time period, the Department shall refer the matter to the Illinois Attorney General, a collection agency, or a licensed attorney for resolution.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 580.250 Grant Funds Recovery

a) If a grantee fails to comply with this Part or any terms of the grant agreement, the Department, after notice and opportunity for hearing, shall suspend or revoke the grant and recover any grant funds previously disbursed to the grantee.

b) If the Department believes that a grant should be suspended, revoked or recovered because of a grantee's failure to comply with this Part or the terms of the grant agreement, the grantee shall have the opportunity for at least one informal hearing before the Department or the Department's designee to determine the facts and issues and to resolve any conflicts as amicably as possible before any formal recovery action is taken.

c) If, based on the outcome of the informal hearing, the Department believes that a grant should be suspended, revoked or recovered because of a grantee's failure to comply with this Part or the terms of the grant agreement, written notice of the proposed action will be given to the grantee identifying the action to be taken and specific facts that permit the action. The grantee shall have 35 calendar days after the receipt of the notice to request a formal hearing (see 77 Ill. Adm. Code 100) to show why recovery is not justified or proper.

d) If a grantee requests a hearing pursuant to subsection (c), the Department will hold a hearing at which the grantee or the grantee's attorney is permitted to present evidence and witnesses to show why the recovery action should not be taken.

e) After the conclusion of the hearing, the Department will issue a written final order setting forth its findings of fact and decision. A copy of the order will be sent to the grantee.

f) In addition to the terms of the grant agreement regarding suspension or termination, the Department may suspend or terminate the grant agreement if the grantee breaches the grant agreement, fails to comply with the Act or this Part, makes any material misrepresentation to the Department or creates any situation that constitutes a threat to the public's health, safety or welfare. Notice of opportunity for hearing will be provided with the notice of suspension. If a grantee requests a hearing pursuant to subsection (c), the Department may not take any action of recovery until at least 35 calendar days after the Department has issued a final recovery order pursuant to subsection (e). If a grantee does not request a hearing, the Department may proceed with recovery of the grant funds identified in the notice at any time after the expiration of the 35 calendar day request period established in subsection (c).

g) Any notice or mailing required or permitted by this Part shall be deemed received five business days after the notice or mailing is deposited in the United States mail, properly addressed with the grantee's current or last known business address and with sufficient U.S. postage affixed.

(Source: Added at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Loan Repayment Assistance for Physicians

2) Code Citation: 77 Ill. Adm. Code 581

3)

Section Numbers:	Proposed Action:
581.100	Amend
581.110	Amend
581.120	New
581.200	Amend
581.210	Amend
581.220	Amend
581.230	Amend
581.240	Amend
581.250	New

4) Statutory Authority: Loan Repayment Assistance for Physicians Act [110 ILCS 949]

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments will add several definitions. New language will be added regarding the terms of performance required and to clarify the process for repayment of funds. Also, new Sections will be added for administrative hearings and for applicable provisions of the Illinois Grant Funds Recovery Act.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

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

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

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

217/782-2043
e-mail: dph.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Community health centers, if the physician is employed at one.

B) Reporting, bookkeeping or other procedures required for compliance: Requirements for applications, progress reports, and project completion are set forth in the rules.

C) Types of professional skills necessary for compliance: Skills necessary to complete the application and monitor compliance with the requirements of this Part (e.g., accounting).

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Regulatory Agendas because: the need for the rulemaking was not apparent when the Regulatory Agendas were prepared.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER g: GRANTS TO DENTAL AND MEDICAL STUDENTS

PART 581
LOAN REPAYMENT ASSISTANCE FOR PHYSICIANS

SUBPART A: GENERAL PROVISIONS

Section
581.100 Definitions
581.110 Referenced Materials
581.120 Administrative Hearings

SUBPART B: EDUCATIONAL LOAN REPAYMENT FOR PHYSICIANS

Section
581.200 Application
581.210 Eligibility
581.220 Grant Awards
581.230 Grant Terms and Obligations
581.240 Penalty for Failure to Fulfill Obligation
581.250 Grant Funds Recovery

AUTHORITY: Implementing and authorized by the Loan Repayment Assistance for Physicians Act [110 ILCS 949].

SOURCE: Adopted at 33 Ill. Reg. 12263, effective August 17, 2009; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 581.100 Definitions

"Act" means the Loan Repayment Assistance for Physicians Act [110 ILCS 949].

"Administrative law judge" shall have the meaning ascribed in the Department's Practice and Procedure in Administrative Hearings.

"Applicant" means a person who submits an application to the Department to receive a physician loan repayment assistance grant.

"Business day" means Monday through Friday. It does not include a federal or State government declared holiday, Saturday or Sunday.

"Calendar day" means all days in a month or prescribed time frame. It includes weekends and federal or State government declared holidays.

"Commercial lending institution" means a bank, credit union or financial company that makes loans.

"Department" means the Department of Public Health. (Section 10 of the Act)

"Educational loans~~Loans~~" means higher education student loans that a person has incurred in attending a registered professional physician education program. (Section 10 of the Act)

"Full-time practice~~Time Practice~~" means maintaining office hours for patient care that equal or exceed the mean number of office hours and face to face patient visits per week reported by physicians, by specialty, and published in the American Medical Association's "Socioeconomic Characteristics of Medical Practice, 2002", incorporated by reference in Section 581.110.

"Grant" means funds awarded under the Act.

"Grant agreement" means the agreement entered into between the Department and any person or entity for obligation, capital expenditure or use for a specific purpose.

"Grantee" means a *person or entity which may use grant funds* (Section 2(c) of the Illinois Grant Funds Recovery Act).~~refers to a person who is the recipient of a grant for educational loan repayment assistance under the Act and this Part.~~

"*Grant funds*" means *public funds dispensed* by the Department *to any person or entity for obligation, expenditure or use for a specific purpose.* (Section 2(b) of the Illinois Grant Funds Recovery Act)

"Grant period~~Period~~" means the duration of the loan repayment benefit, which is one year.

"Illinois resident" means a person who has been a resident of Illinois for at least one year prior to applying for loan repayment assistance and is a citizen or lawful permanent resident of the United States.

"Lawful permanent resident" means a person who is not a citizen of the United States but who resides in the United States under legally recognized requirements and lawfully records his/her permanent residence.

"Metropolitan statistical area" or "MSA" means one or more adjacent counties that have at least one urban core area of at least 50,000 population, plus adjacent territory that has a high degree of social and economic integration with the core, as measured by commuting ties.

"Physician" means a person licensed under the Medical Practice Act of 1987 [225 ILCS 60] *to practice medicine in all of its branches.* (Section 10 of the Act)

"Program" means the educational loan repayment assistance program for physicians established by the Department under the Act. (Section 10 of the Act)

"Registered professional physician education program" means any accredited private or public nonprofit school that provides education leading to a doctor of medicine or doctor of osteopathy degree.

"Rural" means any geographic area not located in a U.S. Census Bureau Metropolitan Statistical Area; or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less; or a geographic area located within a Metropolitan Statistical Area but having a population of 2,500 or less.

"Service term~~Term~~" means~~refers to~~ the length of time that the physician is obligated to serve as a physician in Illinois as the result of receiving loan repayment funds from the Department.

"Urban" means any geographic area that does not meet the definition of "rural" in this Section~~rural geographic area definition in this Part~~.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 581.110 Referenced Materials

The following materials are incorporated or referenced in this Part:

a) Illinois Statutes:

1) Medical Practice Act of 1987 [225 ILCS 60]

2) Loan Repayment Assistance for Physicians Act [110 ILCS 949]

3) Illinois Grant Funds Recovery Act [30 ILCS 705]

4) Illinois Administrative Procedure Act [5 ILCS 100]

5) Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-200]

b) Illinois Administrative Rule: Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

c)~~b)~~ Other Guidelines
"Socioeconomic Characteristics of Medical Practice, 2002" prepared by the American Medical Association's Center for Health Policy Research (515 N. State St., #16, Chicago IL 60654, 312-434-5000~~(312)464-5000)~~

d)~~c)~~ All incorporations by reference of standards of nationally recognized organizations refer to the standards on the date specified and do not include any amendments or editions~~additions or deletions~~ subsequent to the date specified.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 581.120 Administrative Hearings

Administrative hearings conducted concerning the provisions of this Part shall be governed by the Department's Practice and Procedure in Administrative Hearings.

(Source: Added at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

SUBPART B: EDUCATIONAL LOAN REPAYMENT FOR PHYSICIANS

Section 581.200 Application

a) The Department will prepare and make available applications to eligible applicants. *The form of* the *application and the information required shall be determined by the Department*. (Section 20 of the Act)~~Applicants shall complete an application on forms available from the Department.~~

b) Applicants shall document currently existing educational loan indebtedness to a governmental or commercial lending institution incurred for educational expenses in pursuit of the applicant's medical degree~~ in Illinois~~. The documentation of indebtedness shall include a photocopy or original copy of promissory notes or other evidence of indebtedness with disclosure of lending institution or agency, loan amount, loan period, interest rate, and any amounts repaid prior to the date of submission of the application.

c) An applicant shall demonstrate that he or she meets all of the eligibility criteria in Section 581.210.

d~~e~~) Applicants shall provide their practice location and their medical specialty in the application.

e~~d~~) *The total amount of grants that a person may be awarded under the program shall not exceed $25,000.* (Section 30 of the Act)

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 581.210 Eligibility

a) *To be eligible for assistance under the program, an applicant must meet all of the following qualifications:*

1~~a~~) *He or she must be a citizen or* lawful *permanent resident of the United States.*

2~~b~~) *He or she must be a resident of Illinois.*

3~~c~~) *He or she must be practicing full time in Illinois as a physician.*

4~~d~~) *He or she must currently be repaying educational loans*; and~~.~~

5~~e~~) *He or she must agree to continue full-time practice in Illinois for 3 years.* (Section 25 of the Act)

b) Individuals who receive educational loan repayment assistance from other programs that require service commitments that would prevent the grantee from meeting the requirements of the Act and this Part are ineligible for assistance from this program.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 581.220 Grant Awards

a) For~~*Under the program, for*~~ *each year that a qualified applicant who is selected as a recipient practices full-time in Illinois as a physician, the Department shall, subject to appropriation, award a grant to that person in an amount equal to the amount in educational loans that the person must repay that year. However, the total amount in grants that a person may be awarded under the program shall not exceed $25,000. The Department shall require recipients to use the grants to pay off their educational loans.* (Section 30 of the Act)

b) Payments received from the Department shall be used to repay educational loans (including principal, interest and related expenses) received by the grantee from federal, State or local governments or from commercial lending institutions and used for tuition expenses while attending a registered professional physician education program.

~~b) Payments received must be used for the repayment of education loans, including principal, interest and related expenses of government and commercial loans received by the individual and used for tuition expenses while attending a registered professional physician education program in the State.~~

c) When ~~qualified~~ applications are available to support a geographical separation into urban and rural groupings, an equal number of applicants will be selected from each group~~of the groups~~.

d) When appropriations are insufficient to provide loan repayment to all qualified applicants, awards will be prorated.

e) Applications shall be accepted between July 1 and September 30 of each calendar year. If all funds are not expended, subsequent applications will be evaluated individually as received.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 581.230 Grant Terms and Obligations

a) Each physician selected for educational loan repayment assistance shall enter into a written grant agreement with the Department prior to receiving loan repayment funds. The agreement shall contain terms and conditions that ensure compliance with this Part and the laws of the State of Illinois, and enforcement of the agreement.

1) The grant agreement shall contain, at a minimum, the following:

A) Identifying information of the grantee, including name, mailing address, phone number and e-mail address;

B) A description of the grant's purpose;

C) Specific information on how payments to the grantee will be made;

D) Details on what constitutes permissible expenditure of grant funds;

E) Financial controls applicable to the grant; and

F) The time frame within which the grant is valid, including the time frame during which grant funds can be expended.

2) Grants are effective on the date that a grant agreement is executed between the Department and the grantee.

A) A grant is valid for the time frame outlined in the grant agreement.

B) The Department will deem a grant agreement null and void if the grantee does not fulfill the requirements stipulated in the agreement.

C) Grants are not assignable or transferable. Any assignment or transfer shall render the grant agreement null and void.

b) Grantees shall complete three years of service in Illinois. Grantees who were awarded a grant based on geographical preference and who wish to move their practice from the location described in the ~~grantee's~~ original application and retain status as a grantee shall receive approval from the Department prior to relocating to another~~and shall relocate to an~~ area in Illinois. Without prior approval from the Department, time in a practice location will not count toward the grantee's service obligation.

c) Every three~~six~~ months, the grantee shall provide documentation to the Department that the amount of money paid for educational loan debt is greater than or equal to the amount of money paid by the Department under this program. Cancelled checks or documentation from the lending institution will be accepted for this purpose.

d) The grant program administered under this Part will allow for initial three year grants and subsequent one year grants. Grantees~~Grant recipients~~ will be given priority for additional year funding provided that~~so long as~~ they continue to meet the eligibility requirements described in Section 25 of the Act and Section 581.210.

e) If the grantee is disabled or is otherwise unable for reasons beyond the grantee's control to perform the loan repayment obligations, these obligations shall be suspended until the grantee is able to resume the loan repayment obligations. However, the suspension shall not exceed two years.

1) To request a suspension of the loan repayment obligation, a grantee shall submit a suspension request in writing to the Department. This request shall detail the reason for the suspension and, if temporary, the duration of the suspension and shall be supported by clear and convincing documentation.

2) The Department shall approve a request for suspension if the request is supported by a letter from the grantee's licensed physician fully explaining and attesting to the grantee's inability (either temporarily or permanently) to continue the loan repayment obligation.

3) If the Department denies the suspension request, the grantee shall fulfill the loan repayment obligation.

4) Based on the information contained in the suspension request, the Department's acceptance or denial of the request will be provided in writing, under the Director's signature.

5) If the grantee suffers total and permanent disability, is adjudicated as incompetent or dies, the grantee shall be discharged from all obligations to the Department in connection with this Part and the Act.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 581.240 Penalty for Failure to Fulfill Obligation

a) Upon execution of the grant agreement with the Department, the grantee shall provide full-time medical services in Illinois. The term of this service shall be for three years.

b)~~a)~~ If the~~Upon breach of~~ grant agreement is breached, the grantee *shall repay the Department a sum equal to 3 times the amount of funds*~~*loan repayment recipients who fail to practice full-time in Illinois for three years shall repay the Department a sum equal to three times the amount*~~ *received under the program.* (Section 35 of the Act)

c)~~b)~~ A breach of the grant agreement shall include, but not be limited to, the following ~~situations~~:

1) Failure to practice full-time at the location specified in the grant agreement;

2) Relocation to an area ~~that is~~ outside ~~of the State of~~ Illinois;

3) Material misstatement in furnishing information to the Department;

4) Making any misrepresentation for the purpose of obtaining a loan repayment assistance grant; ~~or~~

5) Failure~~*Failure*~~ *to practice full-time in Illinois for three years*~~.~~ (Section 25 of the Act); or

6) A determination made by the Department that the grantee has two or more concurrent loan repayment obligations from the federal, State or local government or other entity.

d) When the Department determines that the grant agreement has not been fulfilled and all applicable requirements of Section 581.250 have been met, the Department and grantee shall enter into a contract for the repayment of the obligation.

1) To fulfill the repayment requirements of the Act and this Section, the grantee shall have 30 calendar days after the conclusion of all applicable requirements of Section 581.250 to enter into a contract with the Department. This contract shall contain terms of the repayment and provisions for enforcement of the contract.

2) Payment shall be made in equal monthly installments in amounts so that all sums due shall be paid within a period of time equal to the grantee's service term, or remaining portion thereof, or as otherwise approved by the Department.

~~c)~~ ~~*Loan repayment recipients who fail to practice full-time in Illinois for three years shall repay the Department a sum equal to three times the amount received under the program.* (Section 35 of the Act).~~

~~d)~~ ~~The grantee shall repay all funds provided by the Department under this Part within a period of time equal to the recipient's service term.~~

e) If the grantee fails to pay monies~~does not repay all funds~~ owed to the Department within the required time period, the Department shall~~will~~ refer the matter to the Illinois Attorney General, a collection agency or a licensed attorney for resolution.

f) The amounts paid to the Department shall be deposited into the Community Health Center Care Fund and shall be used by the Department to improve access to primary health care services as authorized under Section 2310-200(a) of the Department of Public Health Powers and Duties Law.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 581.250 Grant Funds Recovery

a) If a grantee fails to comply with this Part or any terms of the grant agreement, the Department, after notice and opportunity for hearing, shall suspend or revoke the grant and recover any grant funds previously disbursed to the grantee.

b) If the Department believes that a grant should be suspended, revoked or recovered because of a grantee's failure to comply with this Part or the terms of the grant agreement, the grantee shall have the opportunity for at least one informal hearing before the Department or the Department's designee to determine the facts and issues and to resolve any conflicts as amicably as possible before any formal recovery action is taken.

c) If, based on the outcome of the informal hearing, the Department believes that a grant should be suspended, revoked or recovered because of a grantee's failure to comply with this Part or the terms of the grant agreement, written notice of the proposed action will be given to the grantee identifying the action to be taken and specific facts that permit the action. The grantee shall have 35 calendar days after the receipt of the notice to request a formal hearing (see 77 Ill. Adm. Code 100) to show why recovery is not justified or proper.

d) If a grantee requests a hearing pursuant to subsection (c), the Department will hold a hearing at which the grantee or the grantee's attorney is permitted to present evidence and witnesses to show why the recovery action should not be taken.

e) After the conclusion of the hearing, the Department will issue a written final order setting forth its findings of fact and decision. A copy of the order will be sent to the grantee.

f) In addition to the terms of the grant agreement regarding suspension or termination, the Department may suspend or terminate the grant agreement if the grantee breaches the grant agreement, fails to comply with the Act or this Part, makes any material misrepresentation to the Department or creates any situation that constitutes a threat to the public's health, safety or welfare. Notice of opportunity for hearing will be provided with the notice of suspension. If a

grantee requests a hearing pursuant to subsection (c), the Department may not take any action of recovery until at least 35 calendar days after the Department has issued a final recovery order pursuant to subsection (e). If a grantee does not request a hearing, the Department may proceed with recovery of the grant funds identified in the notice at any time after the expiration of the 35 calendar day request period established in subsection (c).

g) Any notice or mailing required or permitted by this Part shall be deemed received five business days after the notice or mailing is deposited in the United States mail, properly addressed with the grantee's current or last known business address and with sufficient U.S. postage affixed.

(Source: Added at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Allied Health Care Professional Assistance Code

2) Code Citation: 77 Ill. Adm. Code 598

3)

Section Numbers:	Proposed Action:
598.10	Amend
598.20	Amend
598.30	Amend
598.100	Amend
598.110	Amend
598.120	Amend
598.130	Amend
598.140	Amend
598.150	New

4) Statutory Authority: Allied Health Care Professional Assistance Law [110 ILCS 905]

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments will add several definitions, including advanced practice nurse, primary care and medically underserved populations. New language will also be added regarding the terms of performance required of scholarship recipients and to clarify the process for repayment of scholarship funds.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

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

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

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

217/782-2043
e-mail: dph.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Schools of medicine and other schools located in Illinois that provide a course of study for certified nurse midwives, certified nurse practitioners, certified registered nurse anesthetists, and physician assistants.

B) Reporting, bookkeeping or other procedures required for compliance: Requirements for scholarship applications and monitoring as set forth in the rules.

C) Types of professional skills necessary for compliance: Skills necessary to complete the scholarship application and monitor compliance with the requirements of this Part.

14) Regulatory Agenda on which this rulemaking was summarized: January 2011

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER g: GRANTS TO INCREASE ACCESS TO
PRIMARY HEALTH CARE AND SCHOLARSHIPS
FOR HEALTH PROFESSIONAL STUDENTS

PART 598
ALLIED HEALTH CARE PROFESSIONAL ASSISTANCE CODE~~LAW~~

SUBPART A: GENERAL PROVISIONS

Section
598.10 Definitions
598.20 Referenced Materials
598.30 Administrative Hearings

SUBPART B: ALLIED HEALTH CARE PROFESSIONAL SCHOLARSHIPS

Section
598.100 Limitations on Use of Scholarship Funds
598.110 Eligibility for Application
598.120 Criteria for Selecting Scholarship Recipients
598.130 Terms of Performance
598.140 Scholarship Repayment
598.150 Grant Funds Recovery

AUTHORITY: Implementing and authorized by the Allied Health Care Professional Assistance Law [110 ILCS 905].

SOURCE: Adopted at 18 Ill. Reg. 11931, effective August 1, 1994; emergency amendment at 19 Ill. Reg. 6020, effective April 7, 1995, for a maximum of 150 days; emergency expired September 4, 1995; amended at 20 Ill. Reg. 6034, effective April 1, 1996; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 598.10 Definitions

"Academic year" means the period of time each year during which an approved school is open and classes are in session.

"Act" means the Allied Health Care Professional Assistance Law ~~(Ill. Rev. Stat. 1991, ch. 144, par. 1481 et seq.)~~[110 ILCS 905].

"Accepted for admission" means that a student has completed the requirements for entry at an approved school, as documented by the approved school.

"Administrative law judge" shall have the meaning ascribed in the Department's Practice and Procedure in Administrative Hearings.

"Advanced practice nurse" or "APN" *means a person who has met the qualifications for a certified nurse midwife (CNM); certified nurse practitioner (CNP); certified registered nurse anesthetist (CRNA); or clinical nurse specialist (CNS) and has been licensed by the Department* of Financial and Professional Regulation. (Section 50-10 of the Nurse Practice Act)

"Allied health care professional" means a person who is licensed in Illinois as a certified nurse practitioner, physician assistant, certified registered nurse anesthetist or certified nurse midwife.

"Applicant" means a person who submits an application to the Department to receive an allied health care professional assistance scholarship.

"Approved school" means *a medical or other school located in Illinois and accredited in its field or otherwise approved by the Department.* (Section 2003(a)(1) of the Act)

"Arrears" means an overdue amount that has not been paid.

"Business day" means Monday through Friday. It does not include a federal or State government declared holiday, Saturday or Sunday.

"Calendar day" means all days in a month or prescribed time frame. It includes weekends and federal or State government declared holidays.

"Department" means the Illinois Department of Public Health. (Section 2003(b) of the Act)~~"Department" means the Illinois Department of Public Health~~.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Designated Shortage Area" means an area designated by the Director of Public Health as a physician shortage area, a medically underserved area, or a critical health manpower shortage area as defined by the United States Department of Health and Human Services, or as further defined by the Department to enable it to effectively fulfill the purpose stated in Section 2002 of the Act. *Such areas may include the following:*

an urban or rural area which is a rational area for the delivery of health services;

a population group; or

a public or nonprofit private medical facility. (Section 2003(c) of the Act)

"Director" means the Director of the Illinois Department of Public Health.

"Eligible allied health care professional" means a person who meets all of the following qualifications:

he or she is studying an allied health care field in a medical or other school located in Illinois and accredited in its field or otherwise approved by the Department, and agrees to obtain a license to practice in his or her field in this State;

he or she exhibits financial need as determined by the Department; and

he or she agrees to practice full-time in a Designated Shortage Area~~designated shortage area~~ as an allied health care professional one year for each year he or she is a scholarship recipient. (Section 2003(a) of the Act)

"Federally Qualified Health Center" or "FQHC" means a health center funded under section 330 of the federal Public Health Service Act.

"Federally Qualified Health Center Look-Alike" or "FQHC Look-Alike" means an organization that meets the requirements for receiving a grant under section 330 of the federal Public Health Service Act but does not receive federal funding under that authority.

"Fees" means those mandatory charges, in addition to tuition, that all enrolled students at an approved school must pay, including required course or lab fees.

"Fund" means the Community Health Center Care Fund.

"Full-time academic work" means enrollment for the number of hours required per term by a school for its full-time students.

"Full-time employment" means being available at the practice location for face-to-face direct patient visits a minimum of 32 hours per week.

"Full-time student" means a student who is enrolled for at least the number of hours required per term by a school for its full-time students.

"Grant" means funds awarded under the Act.

"Grantor Agency" means any agency of State government which dispenses grant funds. (Section 2(a) of the Illinois Grant Funds Recovery Act)

"Grant agreement" means the agreement entered into between the Department and any person or entity for obligation, capital expenditure or use for a specific purpose).

"Grantee" means a *person or entity which may use grant funds*. (Section 2(c) of the Illinois Grant Funds Recovery Act)

"Grant funds" means public funds dispensed by the Department *to any person or entity for obligation, expenditure or use for a specific purpose*. (Section 2(b) of the Illinois Grant Funds Recovery Act)

"Good academic standing" means that a student is matriculating with the rest of his or her class and is demonstrating minimum competence in his or her field of study at an approved school.

"Health Professional Shortage Area" or "HPSA" is a designation provided by the U.S. Department of Health and Human Services, Health Resources and Services Administration. The HPSA designation indicates the shortage of primary medical care, dental or mental health providers. The designation may be geographic (a

county or service area), demographic (low income population) or institutional (comprehensive health center, FQHC or other public facility). HPSA designations can be found at http://hpsafind.hrsa.gov/.

"Health Professional Shortage Area Score" or "HPSA Score" refers to the HPSA shortage severity score calculated by the U.S. Department of Health and Human Services, Bureau of Health Professionals when an HPSA is federally designated.

"Illinois resident" means a person who has been a resident of Illinois for at least one year prior to applying for an Allied Health Care Professional Scholarship and is a citizen or lawful permanent resident of the United States.

"Lawful permanent resident" means a person who is not a citizen of the United States but who resides in the United States under legally recognized requirements and lawfully records his/her permanent residence.

"Medically underserved population" or "MUP" means individuals who reside in a U.S. Department of Health and Human Services health professional shortage area or medically underserved area; or who are designated a medically underserved population by the U.S. Department of Health and Human Services; or who reside in an area designated by the Department as underserved.

"Metropolitan statistical area" or "MSA" means one or more adjacent counties that have at least one urban core area of at least 50,000 in population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties.

"Mid-level providers" include health professionals who have completed specialized training and who meet the requirements of nationally recognized health professional organizations granting certification to certified nurse practitioners, certified nurse midwives, certified registered nurse anesthetists and physician assistants.

"Part-time academic work" means enrollment for at least one-third of the number of hours required per term by a school for its full-time students.

"Part-time student" means a student who is enrolled for at least one-third of the number of hours required per term by a school for its full-time students.

"Physician assistant" means an individual licensed under the Physician Assistant Practice Act of 1987 [225 ILCS 95].

"Primary care" means health care that encompasses prevention services, basic diagnostic and treatment services and support services, including laboratory, radiology, transportation and pharmacy. Primary care is comprehensive in nature and not organ or problem specific, is oriented toward the longitudinal care of the patient, and includes responsibility for coordination of other health and social services as they relate to the patients' needs.

"Quarter" means a term within an academic year that marks the beginning and end of classes. Quarters are approximately eight to 10 weeks in duration and there are four quarters in an academic year.

"Rational area" means a geographic area for the delivery of primary health care services. In determining a rational area, one of the following conditions must be met: a county or a group of contiguous counties whose population centers are within 30 minutes travel time of each other; a portion of a county whose population has limited access to a contiguous area's resources, as measured by travel time greater than 30 minutes; or established communities within a metropolitan statistical area that have limited interaction with contiguous areas, and have a maximum population of 20,000.

"Rural practice" means providing primary care services in any geographic area of Illinois that is not located in a Metropolitan Statistical Area or a county located within a Metropolitan Statistical Area but having a population of less than 60,000, or a community located within a Metropolitan Statistical Area but having a population of 2,500 or less.

"School term" means an academic term, such as a semester, quarter or trimester, or number of clock hours, as defined by an approved school.

"Semester" means a term within an academic year that marks the beginning and end of classes. Semesters are approximately 15 to 16 weeks in duration and there are two semesters in an academic year.

"Summer term" means a term within an academic year that marks the beginning and end of classes. The term is approximately four to nine weeks in duration and is typically offered during June, July and August of an academic year.

"Trimester" means a term within an academic year that marks the beginning and end of classes. Trimesters are approximately 12 to 15 weeks in duration, and there are three trimesters in an academic year.

"Tuition" means the established charges of an institution of higher learning for instruction at the institution.

"Urban practice" means providing primary care services in any geographic area of Illinois that does not meet the rural practice definition.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 598.20 Referenced Materials

The following materials are referenced in this Part:

a) Illinois Statutes: ~~Illinois Health Care Professional Assistance Law (Ill. Rev. Stat 1991, ch. 144, par. 1481 et seq.) [110 ILCS 905].~~

1) Allied Health Care Professional Assistance Law [110 ILCS 905]

2) Illinois Administrative Procedure Act [5 ILCS 100]

3) Physician Assistant Practice Act of 1987 [225 ILCS 95]

4) Nurse Practice Act [225 ILCS 65]

5) Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-200]

6) Illinois Grant Funds Recovery Act [30 ILCS 705]

b) Illinois Rule~~Rules~~: ~~Rules of~~ Practice and Procedure in Administrative Hearings (77 Ill. Adm.~~Admin.~~ Code 100).

c) Federal Statutes:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Designation of Health Professional Shortage Areas, section 332 of the Public Health Service Act (42 USC 254(e))

2) Designation of Medically Underserved Areas, section 330(b)(3) of the Public Health Service Act (42 USC 254(b)(3))

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 598.30 Administrative Hearings

Administrative~~Any administrative~~ hearings conducted by the Department concerning the provisions of this Part shall be governed by the Department's ~~Rules of~~ Practice and Procedure in Administrative Hearings ~~(See 77 Ill. Adm. Code 100)~~.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART B: ALLIED HEALTH CARE PROFESSIONAL SCHOLARSHIPS

Section 598.100 Limitations on Use of Scholarship Funds

a) Scholarships in the amount of $7,500 shall be issued per academic year to each recipient and shall be used for tuition, ~~and matriculation~~ fees and living expenses for students of allied health care professional programs.

b) Scholarships may be made to part-time (but not less than ⅓ time) students and full-time students.

c) Scholarship funds shall be expended by the recipient only while enrolled and in good academic standing at an approved school.

d) Scholarship funds shall not be awarded for expenses incurred when the student must repeat ~~more than once~~ an academic term or terms, if the repetition is necessary because the student has an academic performance below an acceptable level as determined by the student's approved school.

e) Scholarship awards shall be made directly to the recipient.

f) Scholarship awards shall be made for a maximum of two ~~(2)~~ years.

g) Scholarship awards shall not be made if recipient is in arrears on tuition payments to recipient's approved school.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 598.110 Eligibility for Application

a) Students eligible to apply for Allied Health Care Professional Scholarships shall meet the following qualifications:

1) be~~*he or she is*~~ *studying an allied health care field in a medical or other school located in Illinois and accredited in its field or otherwise approved by the Department and agrees to obtain a license to practice in his or her field in this State;*

2) exhibit~~*he or she exhibits*~~ *financial need as determined by the Department; and*

3) agree~~*he or she agrees*~~ *to practice full-time in a Designated Shortage Area~~designated shortage area~~ as an allied health care professional one year for each year he or she is a scholarship recipient.* (Section 2003(a) of the Act)

b) Students receiving funds from other scholarship or loan funds requiring service commitments that would prevent the student~~applicant~~ from meeting the requirements of the Act and this Part~~Allied Health Care Professional Scholarship~~ shall ~~not~~ be ineligible~~eligible~~ for scholarships described in this Subpart.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 598.120 Criteria for Selecting Scholarship Recipients

a) Preference shall be given to those scholarship applicants who, in written narratives and personal interviews, ~~can~~ demonstrate the following:

1) Interest in pursuing a degree and licensure or certification as a certified nurse practitioner, physician assistant, certified registered nurse anesthetist or certified nurse midwife;

2) Previous experience with medically underserved populations;

3) Previous experience in rural practice, with preference given to those whose experience has involved one of the primary care specialty areas;

4) Academic capabilities as reported by the applicant's approved school;

5) Financial need as reported by standard financial analysis documentation supplied by the applicant's school on the student's behalf;

6) Greater number of years of school remaining;

7) Stated interest in providing primary health care to ~~Illinois~~ citizens residing in designated shortage areas of Illinois;

8) Most number of years of residence in Illinois; and

9) United States citizens~~,~~ or lawful permanent residents~~those granted permanent residence in the United States by the Immigration and Naturalization Service~~.

b) Of all applicants, priority shall be given to those individuals who have previously received a scholarship~~an Allied Health Care Professional Scholarship~~, provided that:

1) Recipient requests, in a format determined by the Department, a continuation of scholarship funds;

2) Recipient would not be repeating the same year of school for the second consecutive year because of poor academic performance; and

3) Recipient has not voluntarily withdrawn from school.

c) When the number of applicants is~~are~~ sufficient, scholarships will be equally distributed among all applicants by profession.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 598.130 Terms of Performance

a) Each scholarship recipient shall sign a written agreement with the Department prior to receiving a scholarship~~contract~~. The agreement shall contain ~~contract contains~~ terms and conditions that~~which~~ ensure compliance with this Part and~~,~~ the laws of the State of Illinois, and enforcement of the agreement~~contract~~.

b) Scholarship recipients who fail to complete school because of~~due to~~ academic failure, as documented by the recipient's school, shall repay to the Department the amount received in scholarship assistance. Repayment shall be in accordance with the provisions of the recipient's agreement and Section 598.150~~be discharged from all obligations~~.

c) Scholarship recipients who fail to complete school because of~~due to~~ voluntary actions (e.g., withdrawal from school) on their part shall repay to the Department an amount equal to three~~3~~ times the amount of the annual scholarship ~~grant~~ received for each unfulfilled year of the obligation together with interest at seven~~7~~ percent per year on that amount. Repayment of obligation shall be in accordance with the provisions of the recipient's agreement and Section 598.150.

d) Scholarship recipients who complete school but fail to become licensed in Illinois shall repay to the Department an amount equal to three times the amount of the annual scholarship received for each unfulfilled year of the obligation, together with interest at seven percent 7% per year on that amount. Repayment of the obligation shall be in accordance with the provisions of the recipient's agreement and Section 598.150.

e)~~d)~~ If~~In the event~~ the scholarship recipient is disabled or is otherwise unable for reasons beyond the recipient's control to perform the scholarship obligations, these obligations shall be suspended until ~~such time as~~ the scholarship recipient is able to resume the scholarship obligations. However, the suspension shall not exceed two years. ~~Such suspension shall be requested in writing by the scholarship recipient. The Department's acceptance or denial of the suspension request will be provided in writing under the Director's signature. The Department shall accept a request for a suspension when supported by a letter from the recipient's physician attesting to the recipient's inability (either temporarily or permanently) to continue (either school or the practice of the allied health care professional field) and the recipient's agreeing to not continue either his or her education in the profession (or the practice of the allied health care profession) in any state.~~

1) To request a suspension of the scholarship obligation, a recipient shall submit a suspension request in writing to the Department. This request shall detail the reasons for the suspension and, if temporary, the duration of the suspension and shall be supported by clear and convincing documentation.

2) The Department shall approve a request for a suspension if the request is supported by a letter from the recipient's licensed physician fully explaining and attesting to the recipient's inability (either temporarily or permanently) to continue either school or the recipient's profession and if the recipient agrees not to continue either his or her education or practice in any state.

3) If the Department denies the suspension request, the recipient shall fulfill the scholarship obligation.

4) Based on the information contained in the suspension request, the Department's acceptance or denial of the request will be provided in writing, under the Director's signature.

5) If a scholarship recipient suffers total and permanent disability, is adjudicated as incompetent, or dies, the recipient shall be discharged from all obligations to the Department in connection with the Act and this Part. (Section 2005 of the Act)

f) If the recipient involuntarily leaves the *profession due to a decrease in the number of health care professionals employed in* Illinois, the scholarship recipient shall be discharged from all obligations by the Department. (Section 2005 of the Act)

g)~~e)~~ Misrepresentation of any material~~the~~ facts presented in the scholarship~~recipient's~~ application shall be considered a breach of contract. If the Department determines that a breach of contract occurred, the recipient shall repay to the Department an amount equal to three times the amount of the annual scholarship received for each unfulfilled year of the obligation, together with interest at seven percent per year on that amount. Repayment of the obligation shall be made as agreed to by the recipient and the Department in the recipient's agreement and in accordance with Section 598.150~~All funds provided by the Department to the~~

~~student shall be due in full, immediately~~.

h) A breach of contract shall include, but not be limited to, the following:

1) Failure to practice full time at the location specified in the scholarship agreement;

2) Relocation to an area that is outside Illinois;

3) Material misstatement in furnishing information to the Department; or

4) Making any misrepresentation for the purpose of obtaining a scholarship.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 598.140 Scholarship Repayment

a) Upon successful completion of all educational requirements at the approved school and all applicable Illinois licensure requirements for the profession, the scholarship recipient shall provide health care services as an allied health care professional in a designated shortage area of Illinois. The term of this service shall be *one year for each year he or she is a scholarship recipient*. (Section 2003(a)(3) of the Act)

b) Service as an allied health care professional shall begin no~~not~~ later than 30 calendar days after completion of the allied health training program, or, if licensure is required, 30 calendar days after the issuance of a temporary license by the Illinois Department of Financial and Professional Regulation.

c) The scholarship recipient shall submit a written request to the Department for approval for a proposed practice location. The Department will provide approval or disapproval, in the form of a letter, to the scholarship recipient. A letter of approval shall include a description of the terms of the service obligation.~~Written approval of the Department for a proposed practice location shall be requested and received by the scholarship recipient.~~

1) Without the Department's~~such~~ approval, time in practice at this~~such a~~ location shall not meet the scholarship recipient's service obligation.

2) The scholarship recipient may request and receive approval for a practice location up to 18 months preceding the time practice at the location is to begin.

3) Approval for a practice location is granted for the duration of the scholarship recipient's service obligation.

d) The scholarship recipient's practice shall meet the following requirements:

1) Be located in a designated shortage area;

2) Be a full-time practice providing face-to-face direct patient care; and

3) Provide~~Be providing~~ continuous service at the rate of 12 months for each academic year of school supported by the scholarship.

e) Scholarship recipients may relocate to another practice location or practice in more than one location if prior written approval is granted by the Department.

f) Scholarship recipients shall enter into a written contract with the Department that~~which~~ describes terms of the service obligation and contains provisions for enforcement of the contract.

g) *Scholarship recipients who fail to fulfill the obligation described in* the Act and in Section 598.130(c) and (d)~~ of this Part~~ *shall pay to the Department an amount equal to 3 times the amount of the annual scholarship grant received for each unfulfilled year of the obligation together with interest at 7% per year on that amount.* (Section 2005 of the Act) Repayment of the obligation shall be in accordance with the provisions of the recipient's agreement and Section 598.150.

1) After the Department determines that the scholarship obligation has not been fulfilled and after the Department has satisfied all of the applicable requirements of Section 598.150, the Department and recipient shall enter into a contract for the repayment of the scholarship obligation.

2) To fulfill the repayment requirements of the Act and this Section, the scholarship recipient shall have 30 calendar days after the conclusion of all applicable requirements of Section 598.150 to enter into a contract with the Department.

3)~~1)~~ Payments~~Payment~~ shall be made in equal monthly installments in ~~such~~ amounts so all sums due shall be paid within a period of time equal to the recipient's service term, or remaining portion thereof, or as otherwise approved by the Department.

4)~~2)~~ Both the scholarship recipient~~Recipient~~ and Department shall enter into a written contract that~~which~~ describes terms of the repayment and contains provisions for enforcement of the contract.

5) The amounts paid by the recipient to the Department under this Section shall be deposited into the Community Health Center Care Fund and shall be used by the Department to improve access to primary health care services as authorized under Section 2310-200(a) of the Department of Public Health Powers and Duties Law.

h) If~~In the event~~ a scholarship recipient fails to pay monies owed to the Department, the Department shall~~may~~ refer the matter to the Illinois Attorney General, ~~or to~~ a collection agency, or a licensed attorney for restitution.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 598.150 Grant Funds Recovery

a) If a grant recipient fails to comply with this Part or any terms of the grant agreement, the Department, after notice and opportunity for hearing, shall suspend or revoke the grant and recover any grant funds previously disbursed to the recipient.

b) If the Department believes that a grant should be suspended, revoked or recovered because of a grant recipient's failure to comply with this Part or the terms of the grant agreement, the recipient shall have the opportunity for at least one informal hearing before the Department or the Department's designee to determine the facts and issues and to resolve any conflicts as amicably as possible before any formal recovery action is taken.

c) If, based on the outcome of the informal hearing, the Department believes that a grant should be suspended, revoked or recovered because of a recipient's failure to comply with this Part or the terms of the grant agreement, written notice of the

proposed action shall be given to the recipient identifying the action to be taken and specific facts that permit the action. The recipient shall have 35 calendar days after the receipt of the notice to request a formal hearing (see 77 Ill. Adm. Code 100) to show why recovery is not justified or proper.

d) If a recipient requests a hearing pursuant to subsection (c), the Department shall hold a hearing at which the recipient or the recipient's attorney is permitted to present evidence and witnesses to show why the recovery action should not be taken.

e) After the conclusion of the hearing, the Department shall issue a written final order setting forth its findings of fact and decision. A copy of the order shall be sent to the recipient.

f) In addition to the terms of the grant agreement regarding suspension or termination, the Department may suspend or terminate the grant agreement if the recipient breaches the grant agreement, fails to comply with the Act or administrative rules in this Part, makes any material misrepresentation to the Department or creates any situation that constitutes a threat to the public's health, safety, or welfare. Notice of opportunity for hearing will be provided with the notice of suspension. If a recipient requests a hearing pursuant to subsection (c), the Department may not take any action of recovery until at least 35 calendar days after the Department has issued a final recovery order pursuant to subsection (e). If a recipient does not request a hearing, the Department may proceed with recovery of the grant funds identified in the notice at any time after the expiration of the 35 calendar day request period established in subsection (c).

g) Any notice or mailing required or permitted by this Part shall be deemed received five business days after the notice or mailing is deposited in the United States mail, properly addressed with the recipient's current or last known business address and with sufficient U.S. postage affixed.

(Source: Added at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Health Care Employee Vaccination Code

2) Code Citation: 77 Ill. Adm. Code 956

3)

Section Numbers:	Proposed Action:
956.10	Amend
956.20	Amend

4) Statutory Authority: Section 2310-195, Section 2310-610, and Section 2310-650 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-195, 2310/2310-160, and 2310/2310-650]

5) A Complete Description of the Subjects and Issues Involved: Under the Health Care Employee Vaccination Code (77 Ill. Adm. Code 956), the Department may require any facility licensed by the Department to implement an influenza vaccination program for its employees. When Part 956 was adopted in May, 2010, long-term care facilities licensed under the MR/DD Community Care Act [210 ILCS 47] were omitted from the health care settings covered by Part 956 and listed in Section 956.10 (Definitions), and the MR/DD Community Care Act was not listed in Section 956.20 (Referenced Materials).

This rulemaking fixes that omission, and also adds to those two Sections, respectively, facilities licensed under the Specialized Mental Health Rehabilitation Act [210 ILCS 48], and the Act itself, which was enacted by the General Assembly in 2011.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

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

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

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

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

217/782-2043
e-mail: dph.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: long-term care facilities licensed under the MR/DD Community Care Act [210 ILCS 47]

B) Reporting, bookkeeping or other procedures required for compliance: yes

C) Types of professional skills necessary for compliance: nursing

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Regulatory Agendas because: the need for the rulemaking was not apparent at the time the Regulatory Agendas were proposed.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

PART 956
HEALTH CARE EMPLOYEE VACCINATION CODE

Section
956.10 Definitions
956.20 Referenced Materials
956.30 Influenza Vaccination
956.APPENDIX A Sample Declination Form

AUTHORITY: Sections 2310-195, 2310-610 and 2310-650 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-195, 2310-610 and 2310-650].

SOURCE: Emergency rule adopted at 34 Ill. Reg. 996, effective December 29, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 7725, effective May 19, 2010; amended at 35 Ill. Reg. _____, effective _____.

Section 956.10 Definitions

The following terms shall have the meaning ascribed to them whenever the term is used in this Part:

Health care employee − All paid and unpaid persons working in health care settings who have the potential for exposure to infectious materials, including body substances, contaminated medical supplies and equipment, contaminated environmental surfaces, or contaminated air. Health care employees include, but are not limited to, physicians, nurses, nursing assistants, therapists, technicians, emergency medical services employees, pharmacists, laboratory employees, and persons not directly involved in patient care (e.g., clerical, dietary, housekeeping, maintenance and volunteers) but potentially exposed to infectious agents that can be transmitted to and from health care employees.

Health care setting –

A facility licensed under the Alternative Health Care Delivery Act;

An ambulatory surgical treatment center, as defined in the Ambulatory Surgical Treatment Center Act;

An assisted living facility, a shared housing establishment, or a board and care home, as defined in the Assisted Living and Shared Housing Act;

A community living facility, as defined in the Community Living Facilities Licensing Act;

A life care facility, as defined in the Life Care Facilities Act;

A long-term care facility, as defined in the Nursing Home Care Act;

A long-term care facility, as defined in the MR/DD Community Care Act;

A long-term care facility, as defined in the Specialized Mental Health Rehabilitation Act;

An EMS System, as defined in the Emergency Medical Services (EMS) Systems Act;.

A freestanding emergency center, licensed under the Emergency Medical Services (EMS) Systems Act;

A home health agency, home services agency or home nursing agency, as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act;

A hospice care program or voluntary hospice program, as defined in the Hospice Program Licensing Act;

An end stage renal disease facility, as defined in the End Stage Renal Disease Facility Act;

A supportive residence, as defined in the Supportive Residences Licensing Act;

A hospital, as defined in the Hospital Licensing Act;

The University of Illinois Hospital, Chicago, as defined in the University of Illinois Hospital Act.

Influenza − An acute infectious respiratory disease, caused by influenza viruses.

Vaccination − The act or practice of vaccinating; inoculation with vaccine.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 956.20 Referenced Materials

The following Illinois statutes are referenced in this Part:

a) Alternative Health Care Delivery Act [210 ILCS 3]

b) Ambulatory Surgical Treatment Center Act [210 ILCS 5]

c) Assisted Living and Shared Housing Act [210 ILCS 9]

d) Community Living Facilities Licensing Act [210 ILCS 35]

e) Life Care Facilities Act [210 ILCS 40]

f) Nursing Home Care Act [210 ILCS 45]

g) Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

h) Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]

i) Hospice Program Licensing Act [210 ILCS 60]

j) End Stage Renal Disease Facility Act [210 ILCS 62]

k) Supportive Residences Licensing Act [210 ILCS 65]

l) Hospital Licensing Act [210 ILCS 85]

m) University of Illinois Hospital Act [110 ILCS 330]

n) MR/DD Community Care Act [210 ILCS 47]

o) Specialized Mental Health Rehabilitation Act [210 ILCS 48]

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Electronic Filing of Returns or Other Documents

2) Code Citation: 86 Ill. Adm. Code 760

3) Section Number: 760.100 — Proposed Action: Amendment

4) Statutory Authority: 35 ILCS 5/501

5) A Complete Description of the Subjects and Issues Involved: The current regulation follows the former IRS practice of requiring paid return preparers who file more than 100 individual income tax returns in a year to file all individual income tax returns electronically in the following year. The IRS has revised the threshold to 10 returns, and this rulemaking makes the corresponding change.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

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

Paul Caselton
Deputy General Counsel - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

217/524-3951

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Some small professional income tax return preparation businesses who are required to file federal individual income tax returns electronically will be required to file Illinois income tax returns electronically.

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 2011

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 760
ELECTRONIC FILING OF RETURNS OR OTHER DOCUMENTS

Section

760.100 Electronic Returns
760.110 Exclusions from Electronic Filing
760.120 Where to Send Electronic Returns (Repealed)
760.200 Ways to Participate in Electronic Filing
760.210 Enrollment in the Electronic Filing Program
760.220 Electronic Payment Required
760.230 Electronic Signatures
760.240 Due Dates and Date Received
760.300 Responsibilities of Electronic Filers
760.310 Filing Acknowledgments
760.320 Electronic Payment Acknowledgments
760.330 Termination of Voluntary Participants

AUTHORITY: Implementing and authorized by Section 2505-200 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-200].

SOURCE: Adopted at 22 Ill. Reg. 14905, effective August 3, 1998; amended at 27 Ill. Reg. 14636, effective August 26, 2003; amended at 30 Ill. Reg. 11590, effective June 26, 2006; amended at 35 Ill. Reg. 529, effective December 21, 2010; amended at 35 Ill. Reg. 16737, effective September 29, 2011; amended at 35 Ill. Reg. _____, effective _____.

Section 760.100 Electronic Returns

a) The Department has mandatory electronic filing programs and voluntary programs for certain returns and other documents that are required to be filed with the Department. Upon acceptance into the program, the returns, schedules, and other documents listed in this Section may be electronically filed with the Department.

b) An electronic return or other document consists of data transmitted to the Department electronically, and may include paper documents that contain information that cannot be electronically transmitted or are requested for

verification. In total, electronic returns must contain the same information as traditionally filed paper documents.

c) Mandatory Programs

1) Beginning January 1, 2003, telecommunications providers who have average monthly tax billings for the immediately preceding calendar year that exceed $1000 must file their tax returns and supporting schedules electronically. Paper documents that contain information that cannot be electronically provided or are requested for verification must be mailed to the Department. The following circumstances require paper documentation:

A) When a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).

B) When a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.

C) When the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.

2) Beginning January 1, 2003, cigarette distributors with 30 or more invoice transactions per month and who are not voluntarily filing returns and schedules by electronic means are required to file supporting schedule data with the Department on computer-generated magnetic media in a format prescribed by the Department.

3) During~~Beginning with~~ calendar year 2011, each income tax return preparer who is required during ~~the~~ calendar year 2011 to file by electronic means any federal income tax return for any individual or individuals and who prepared more than 100 Illinois income tax returns for individuals during ~~the preceding~~ calendar year 2010 is required ~~during the calendar year~~ to file by electronic means any Illinois income tax returns he or she prepares for the same individual or individuals for the

same taxable year for which the preparer filed a federal income tax return during ~~that~~ calendar year 2011. Beginning with calendar year 2012, each income tax return preparer who is required during the calendar year to file by electronic means any federal income tax return for any individual or individuals and who prepared more than 10 Illinois income tax returns for individuals during the preceding calendar year is required during the calendar year to file by electronic means any Illinois income tax returns he or she prepares for the same individual or individuals for the same taxable year for which the preparer filed a federal income tax return during that calendar year. This subsection (c)(3) does not require electronic filing of amended returns or of returns of trusts or estates, or of any return the Department has announced cannot be filed by electronic means.

4) Beginning with returns required to be filed for taxable years ending on or after December 31, 2011, any taxpayer required to file its federal income tax return by electronic means is required to file its equivalent Illinois income tax return for the same taxable year by electronic means. This subsection (c)(4) does not require electronic filing of amended returns or of returns of individuals or estates, or to any return the Department has announced cannot be filed by electronic means.

d) Voluntary Programs

1) Taxpayers may volunteer to participate in any electronic filing program currently in effect for mandatory electronic filers.

2) Form ST-1, Sales and Use Tax Return, and Form ST-2, Multiple Site attachment for Form ST-1, can be transmitted electronically under the provisions of this Part.

3) Beginning January 1, 2003, original or amended liquor tax returns and schedules for Liquor Tax participants may be filed electronically under the provisions of this Part.

A) Paper documents that contain information that cannot be electronically provided or are requested for verification must be mailed to the Department. They include:

i) Copies of schedules, invoices or bills of lading requested for verification in accordance with Section 8-2 of the Liquor Control Act of 1934 [235 ILCS 5/8-2].

ii) Non-Beverage User permits.

B) Beginning January 1, 2003, persons filing liquor tax returns and schedules electronically must also make payments by means of electronic funds transfer. See Section 760.220 of this Part. By doing so, the taxpayer is entitled to a discount of 1.75% of the tax due, or $1,250, whichever is less, provided that the electronic return and payment are made timely in accordance with this Part.

C) Liquor tax participants may file their returns and schedules using magnetic media in a format prescribed by the Department. Liquor tax participants that file returns and schedules on magnetic media are not entitled to the discount provided for in subsection (d)(3)(B) of this Section.

4) Beginning January 1, 2003, original or amended cigarette tax returns and schedules for Cigarette Tax participants may be filed electronically under the provisions of this Part.

5) Illustrations of When Paper Documents Must Be Filed

A) In the event a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).

B) In the event a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.

C) In the event the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.

(Source: Amended at 35 Ill. Reg. 16737, effective September 29, 2011)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Certification

2) Code Citation: 23 Ill. Adm. Code 25

3)

Section Numbers:	Proposed Action:
25.115	Amendment
25.130	Amendment
25.252	Amendment
25.275	Amendment
25.345	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6

5) A Complete Description of the Subjects and Issues Involved: This set of proposed amendments addresses several Sections of Part 25 to incorporate changes necessitated by recent legislation and to update requirements specific to educator program approval and speech-language pathologists. The remaining changes are nonsubstantive and technical in nature.

Section 25.115 is being amended to require that educator preparation programs incorporate into their programs the State Board's Social and Emotional Learning Standards. These standards can be found in 23 Ill. Adm. Code 555 (Children's Mental Health Initiative Grants), and school districts receiving grant funds under that initiative are required to incorporate these standards into their educational programs. Additionally, school districts not receiving grants are required under the Children's Mental Health Act of 2003 to address social and emotional development in their educational programs.

During the promulgation of rules governing principal preparation programs (23 Ill. Adm. Code 30), several commenters requested that the agency require these programs to incorporate the Social and Emotional Learning Standards. The agency also received a request from the Illinois Children's Mental Health Partnership to incorporate the social and emotional standards into all educator preparation programs. Given the mandate of the Act for school districts to address students' social and emotional development, it is appropriate for educator preparation programs to address social and emotional learning as part of their programs. Requiring incorporation of the standards into educator preparation programs will ensure that teachers, administrators and school service personnel have the knowledge and skills necessary to provide instruction specific to social and emotional development; assess students' social and emotional skills; and

respond to children with social, emotional, or mental health problems that have an impact on their ability to learn.

Finally, an intervening rulemaking, effective September 29, 2011, changed portions of Section 25.115 and those changes are reflected in this proposal.

Section 25.252, which addresses requirements for non-teaching speech-language pathologists, is being clarified to define acceptable master's or doctoral programs as those that are accredited (as is required under Section 14-1.09b of the School Code) as well as those that hold status as 'accreditation candidate'. This change acknowledges that a program seeking accreditation from the Council on Academic Accreditation in Audiology and Speech-Language Pathology (CAA) remains in 'accreditation status' for eight years before being recognized as fully accredited. This has caused difficulty for individuals seeking certification who have completed post-graduate studies in programs that hold 'accreditation candidate' status. The proposed change is based upon a request from CAA in June to consider programs holding 'accreditation candidate' status as 'approved' for the purposes of meeting Illinois' certification requirements.

Finally, two new public acts have affected Sections 25.275 and 25.345 of the rules. PA 97-233, effective August 1, 2011, added a fifth purpose of continuing professional development for school service personnel, necessitating a change in subsection (d).

PA 97-255, effective August 4, 2011, now allows individuals with master's degrees in public administration to apply for a chief school business official certification, provided that certain other requirements have been met. Staff also are proposing a modification to one of those requirements, a six-hour internship in school business management, to allow institutions of higher education to consider an individual's time employed in a school business office as contributing to the number of hours required for the internship. The standard being proposed – one semester hour being equivalent to a minimum of 15 clock-hours – mirrors the conversion standard typically used in the field and is similar to what is currently required under the rules for converting semester hours into continuing professional development units. Additionally, in recognition of the limited availability of opportunities to complete the internship under the supervision of certified staff from the higher education institution awarding the credit, it is proposed that the internship be supervised by the school district's chief school business officer or financial officer. The intent of the rule is to ensure that the candidate is supervised during the internship by someone knowledgeable about the position, and this change will preserve that intent while broadening options for appropriately qualified individuals to obtain the endorsement.

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; see Sections 25.115(d) and (e).

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

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

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

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not-for-profit entities and nonpublic colleges and universities meeting the requirements set forth in Section 25.115, if they choose to provide educator preparation programs in Illinois.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance: See Subpart C for requirements.

C) Types of professional skills necessary for compliance: None

14) This rulemaking was not included on either of the 2 most recent Agendas because: the need for a portion of the rulemaking did not become apparent until recently and other changes are due to legislation enacted after the agenda was published.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 25
CERTIFICATION

SUBPART A: DEFINITIONS

Section
25.10 Accredited Institution

SUBPART B: CERTIFICATES

Section
25.11 New Certificates (February 15, 2000)
25.15 Standards for Certain Certificates (Repealed)
25.20 Requirements for the Elementary Certificate (Repealed)
25.22 Requirements for the Elementary Certificate (2004) (Repealed)
25.25 Requirements for "Full" Certification
25.30 Endorsement in Teacher Leadership
25.32 Requirements for the Secondary Certificate (2004) (Repealed)
25.35 Acquisition of Subsequent Certificates; Removal of Deficiencies (Repealed)
25.37 Acquisition of Subsequent Teaching Certificates (2004)
25.40 Requirements for the Special Certificate (Repealed)
25.42 Requirements for the Special Certificate (2004) (Repealed)
25.43 Standards for Certification of Special Education Teachers
25.45 Standards for the Initial Special Preschool-Age 12 Certificate – Speech and Language Impaired
25.46 Special Provisions for the Learning Behavior Specialist I Endorsement
25.47 Special Provisions for the Learning Behavior Specialist I Approval
25.48 Short-Term Emergency Certification in Special Education
25.50 General Certificate (Repealed)
25.60 State Special Certificate, Grades 11-12, For Teaching Elective Subjects (Repealed)
25.65 Alternative Certification
25.67 Alternative Route to Teacher Certification
25.70 Provisional Vocational Certificate

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.72 Temporary Provisional Vocational Certificate
25.75 Part-time Provisional Certificates
25.80 Requirements for the Early Childhood Certificate (Repealed)
25.82 Requirements for the Early Childhood Certificate (2004) (Repealed)
25.85 Special Provisions for Endorsement in Foreign Language for Individuals Currently Certified
25.86 Special Provisions for Endorsement in Foreign Language for Individuals Prepared as Teachers But Not Currently Certified
25.90 Transitional Bilingual Certificate and Examination
25.92 Visiting International Teacher Certificate
25.95 Majors, Minors, and Separate Fields for the Illinois High School Certificate (Repealed)
25.99 Endorsing Teaching Certificates (Repealed)
25.100 Endorsing Teaching Certificates (2004)
25.105 Temporary Substitute Teaching Permit

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

Section
25.110 System of Approval: Levels of Approval (Repealed)
25.115 Recognition of Institutions and Educational Units, and Approval of Programs
25.120 Standards and Criteria for Institutional Recognition and Program Approval (Repealed)
25.125 Accreditation Review of the Educational Unit (Repealed)
25.127 Review of Individual Programs (Repealed)
25.130 Interventions by the State Board of Education and State Teacher Certification Board
25.135 Interim Provisions for Continuing Accreditation and Approval – July 1, 2000, through Fall Visits of 2001 (Repealed)
25.136 Interim Provisions for Continuing Accreditation – Institutions Visited from Spring of 2002 through Spring of 2003 (Repealed)
25.137 Interim Provisions for Continuing Accreditation and Approval – July 1, 1999, through June 30, 2000 (Repealed)
25.140 Requirements for the Institution's Educational Unit Assessment Systems
25.142 Assessment Requirements for Individual Programs
25.145 Approval of New Programs Within Recognized Institutions
25.147 Approval of Programs for Foreign Language Beginning July 1, 2003
25.150 The Periodic Review Process (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.155 Procedures for the Initial Recognition of an Institution as an Educator Preparation Institution and Its Educational Unit25.160 Notification of Recommendations; Decisions by State Board of Education
25.165 Discontinuation of Programs

SUBPART D: SCHOOL SERVICE PERSONNEL

Section
25.200 Relationship Among Credentials in Subpart D
25.210 Requirements for the Certification of School Social Workers (Repealed)
25.215 Certification of School Social Workers (2004)
25.220 Requirements for the Certification of Guidance Personnel (Repealed)
25.225 Certification of School Counselors (2004)
25.227 Interim Certification of School Counselor Interns (2004)
25.230 Requirements for the Certification of School Psychologists (Repealed)
25.235 Certification of School Psychologists (2004)
25.240 Standard for School Nurse Endorsement (Repealed)
25.245 Certification of School Nurses (2004)
25.250 Standards for Non-Teaching Speech-Language Pathologists
25.252 Certification of Non-Teaching Speech-Language Pathologists
25.255 Interim Certification of Speech-Language Pathologist Interns
25.275 Renewal of the School Service Personnel Certificate

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF ADMINISTRATIVE AND SUPERVISORY STAFF

Section
25.300 Relationship Among Credentials in Subpart E
25.310 Definitions (Repealed)
25.311 Administrative Certificate (Repealed)
25.313 Alternative Route to Administrative Certification
25.314 Alternative Route to Administrative Certification for Teacher Leaders
25.315 Renewal of Administrative Certificate
25.320 Application for Approval of Program (Repealed)
25.322 General Supervisory Endorsement (Repealed)
25.330 Standards and Guide for Approved Programs (Repealed)
25.333 General Administrative Endorsement (Repealed)
25.335 General Administrative Endorsement (Through June 30, 2014)
25.337 Principal Endorsement (2012)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.338 Designation as Master Principal
25.344 Chief School Business Official Endorsement (Repealed)
25.345 Chief School Business Official (2004)
25.355 Superintendent Endorsement (Repealed)
25.360 Superintendent (2004)
25.365 Director of Special Education

SUBPART F: GENERAL PROVISIONS

Section
25.400 Registration of Certificates; Fees
25.405 Military Service
25.410 Revoked Certificates
25.415 Credit in Junior College (Repealed)
25.420 Psychology Accepted as Professional Education (Repealed)
25.425 Individuals Prepared in Out-of-State Institutions
25.427 Three-Year Limitation
25.430 Institutional Approval (Repealed)
25.435 School Service Personnel Certificate – Waiver of Evaluations (Repealed)
25.437 Equivalency of General Education Requirements (Repealed)
25.440 Master of Arts NCATE (Repealed)
25.442 Illinois Teacher Corps Programs
25.444 Illinois Teaching Excellence Program
25.445 College Credit for High School Mathematics and Language Courses (Repealed)
25.450 Lapsed Certificates
25.455 Substitute Certificates
25.460 Provisional Special and Provisional High School Certificates (Repealed)
25.464 Short-Term Authorization for Positions Otherwise Unfilled
25.465 Credit (Repealed)
25.470 Meaning of Experience on Administrative Certificates (Repealed)
25.475 Renewal Requirements for Holders of Multiple Types of Certificates
25.480 Credit for Certification Purposes (Repealed)
25.485 Certification of Persons with Certificates Previously Denied, Suspended, or Revoked
25.486 Certification of Persons Who Are Delinquent in the Payment of Child Support
25.487 Certification of Persons with Illinois Tax Noncompliance
25.488 Certification of Persons Named in Reports of Child Abuse or Neglect
25.489 Certification of Persons Who Are in Default on Student Loans
25.490 Certification of Persons Who Have Been Convicted of a Crime

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.493 Part-Time Teaching Interns (Repealed)
25.495 Approval of Out-of-State Institutions and Programs (Repealed)
25.497 Supervisory Endorsements

SUBPART G: PARAPROFESSIONALS AND OTHER NONCERTIFICATED PERSONNEL

Section
25.510 Paraprofessionals; Teacher Aides
25.520 Other Noncertificated Personnel (Repealed)
25.530 Specialized Instruction by Noncertificated Personnel (Repealed)
25.540 Approved Teacher Aide Programs (Repealed)
25.550 Approval of Educational Interpreters

SUBPART H: CLINICAL EXPERIENCES

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

SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

Section
25.705 Purpose – Severability
25.710 Definitions
25.715 Test Validation
25.717 Test Equivalence
25.720 Applicability of Testing Requirement and Scores
25.725 Applicability of Scores (Repealed)
25.728 Use of Test Results by Institutions of Higher Education
25.730 Registration − Paper-and-Pencil Testing
25.731 Registration − Computer-Based Testing
25.732 Late Registration
25.733 Emergency Registration
25.735 Frequency and Location of Examination
25.740 Accommodation of Persons with Special Needs
25.745 Special Test Dates
25.750 Conditions of Testing

25.755 Cancellation of Scores; Voiding of Scores
25.760 Passing Score
25.765 Individual Test Score Reports
25.770 Re-scoring
25.775 Institution Test Score Reports
25.780 Fees

SUBPART J: RENEWAL OF STANDARD AND MASTER TEACHING CERTIFICATES

Section
25.800 Professional Development Required
25.805 Continuing Professional Development Options
25.807 Additional Specifications Related to Professional Development Activities of Special Education Teachers
25.810 State Priorities
25.815 Submission and Review of the Plan (Repealed)
25.820 Review of Approved Plan (Repealed)
25.825 Progress Toward Completion (Repealed)
25.830 Application for Renewal of Certificate(s)
25.832 Validity and Renewal of Master Certificates
25.835 Review of and Recommendation Regarding Application for Renewal
25.840 Action by State Teacher Certification Board; Appeals
25.845 Responsibilities of School Districts
25.848 General Responsibilities of LPDCs
25.850 General Responsibilities of Regional Superintendents
25.855 Approval of Illinois Providers
25.860 Out-of-State Providers
25.865 Awarding of Credit for Activities with Providers
25.870 Continuing Education Units (CEUs) (Repealed)
25.872 Special Provisions for Interactive, Electronically Delivered Continuing Professional Development
25.875 Continuing Professional Development Units (CPDUs)
25.880 "Valid and Exempt" Certificates; Proportionate Reduction; Part-Time Teaching
25.885 Funding; Expenses (Repealed)

SUBPART K: REQUIREMENTS FOR RECEIPT OF THE STANDARD TEACHING CERTIFICATE

Section

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.900 Applicability of Requirements in this Subpart
25.905 Choices Available to Holders of Initial Certificates
25.910 Requirements for Induction and Mentoring
25.915 Requirements for Coursework on the Assessment of One's Own Performance
25.920 Requirements for Coursework Related to the National Board for Professional Teaching Standards (NBPTS)
25.925 Requirements Related to Advanced Degrees and Related Coursework
25.930 Requirements for Continuing Professional Development Units (CPDUs)
25.935 Additional Activities for Which CPDUs May Be Earned
25.940 Examination
25.942 Requirements for Additional Options
25.945 Procedural Requirements

25.APPENDIX A Statistical Test Equating – Certification Testing System
25.APPENDIX B Certificates Available Effective February 15, 2000
25.APPENDIX C Exchange of Certificates
25.APPENDIX D Criteria for Identification of Teachers as "Highly Qualified" in Various Circumstances
25.APPENDIX E Endorsement Structure Beginning July 1, 2004

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

SOURCE: Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg. 1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10 Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022, effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 11767, effective June 25, 1998; amended at 22 Ill. Reg. 19745, effective October 30, 1998; amended at 23 Ill. Reg. 2843, effective February 26, 1999; amended at 23 Ill. Reg. 7231, effective June 14, 1999; amended at 24 Ill. Reg. 7206, effective May 1, 2000; emergency amendments at 24 Ill. Reg. 9915, effective June 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12930, effective August 14, 2000; peremptory

amendment at 24 Ill. Reg. 16109, effective October 12, 2000; peremptory amendment suspended at 25 Ill. Reg. 3718, effective February 21, 2001; peremptory amendment repealed by joint resolution of the General Assembly, effective May 31, 2001; emergency amendments at 25 Ill. Reg. 9360, effective July 1, 2001, for a maximum of 150 days; emergency expired November 27, 2001; emergency amendments at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16031, effective November 28, 2001; amended at 26 Ill. Reg. 348, effective January 1, 2002; amended at 26 Ill. Reg. 11867, effective July 19, 2002; amended at 26 Ill. Reg. 16167, effective October 21, 2002; amended at 27 Ill. Reg. 5744, effective March 21, 2003; amended at 27 Ill. Reg. 8071, effective April 28, 2003; emergency amendments at 27 Ill. Reg. 10482, effective June 26, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 12523, effective July 21, 2003; amended at 27 Ill. Reg. 16412, effective October 20, 2003; emergency amendment at 28 Ill. Reg. 2451, effective January 23, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 8556, effective June 1, 2004; emergency amendments at 28 Ill. Reg. 12438, effective August 20, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1212, effective January 4, 2005; amended at 29 Ill. Reg. 10068, effective June 30, 2005; amended at 29 Ill. Reg. 12374, effective July 28, 2005; emergency amendment at 29 Ill. Reg. 14547, effective September 16, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 15831, effective October 3, 2005; amended at 30 Ill. Reg. 1835, effective January 26, 2006; amended at 30 Ill. Reg. 2766, effective February 21, 2006; amended at 30 Ill. Reg. 8494, effective April 21, 2006; amended at 31 Ill. Reg. 10645, effective July 16, 2007; amended at 32 Ill. Reg. 3413, effective February 22, 2008; amended at 32 Ill. Reg. 13263, effective July 25, 2008; emergency amendment at 32 Ill. Reg. 18876, effective November 21, 2008, for a maximum of 150 days; amended at 33 Ill. Reg. 5462, effective March 24, 2009; amended at 34 Ill. Reg. 1582, effective January 12, 2010; amended at 34 Ill. Reg. 15357, effective September 21, 2010; amended at 35 Ill. Reg. 4315, effective February 23, 2011; peremptory amendment at 35 Ill. Reg. 14663, effective August 22, 2011; amended at 35 Ill. Reg. 16755, effective September 29, 2011; amended at 35 Ill. Reg. _____, effective _____.

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

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

As used in this Subpart C, "institution" shall be defined as an Illinois institution of higher education, an out-of-state college or university granted authorization to operate by the Illinois Board of Higher Education as an out-of-state institution, an out-of-state college or university granted authorization to operate by the state in which it is located, or a not-for-profit educational entity subject to the General Not For Profit Corporation Act of 1986 [805 ILCS 105] or

incorporated as a not-for-profit entity in another state but registered to do business in the State of Illinois pursuant to the Business Corporation Act of 1983 [805 ILCS 5].

a) In order for an institution to offer one or more programs that prepare professional educators, that institution must be recognized, and the educational unit responsible for such programs must be recognized, by the State Board of Education in consultation with the State Teacher Certification Board. "Educational unit" means the institution or college, school, department, or other administrative body within the institution that is primarily responsible for the initial and continuing preparation of teachers and other education professionals. Each program that is offered by a recognized institution must also be individually approved by the State Board of Education in consultation with the State Teacher Certification Board. "Program" or "preparation program" means a program that leads to certification. Electronic transmission of written materials pursuant to this Subpart C is required.

b) In order to be considered for recognition under Section 25.155 of this Part, a degree-granting institution of higher education shall:

1) be regionally accredited;

2) be approved by the Illinois Board of Higher Education to operate as a postsecondary degree-granting institution under the provisions of the Private College Act [110 ILCS 1005] and the Academic Degree Act [110 ILCS 1010] or, if the out-of-state institution is not required to seek authorization to operate from the Illinois Board of Higher Education, be approved to offer educator preparation programs by the state that granted it operating authority; and

3) sponsor a course of study leading to a certificate issued under Article 21 of the School Code [105 ILCS 5/Art. 21] and this Part.

c) In order to be considered for recognition under Section 25.155 of this Part, an eligible not-for-profit educational entity shall conduct or propose to conduct at least one approved program that will prepare professional educators and leads to a certificate issued pursuant to Article 21 of the School Code and this Part.

d) In order to be considered for recognition under Section 25.155 of this Part, an educational unit shall meet the standards enumerated in "Professional Standards

for the Accreditation of Teacher Preparation Institutions " (2008), published by the National Council for the Accreditation of Teacher Education (NCATE), 2010 Massachusetts Avenue, N.W., Suite 500, Washington, D.C. 20036-1023 (no later amendments to or editions of these standards are incorporated by this Section).

e) In order to be considered for approval under Section 25.145 of this Part, a recognized institution shall propose a preparation program that:

1) meets the national content standards accepted by the State Board of Education and listed on the State Board of Education's website at www.isbe.net or, if no national content standards are specified, then the applicable content standards set forth at 23 Ill. Adm. 23, 26, 27, or 29;

2) meets the standards set forth at 23 Ill. Adm. Code 24 (Standards for All Illinois Teachers) or the Educational Leadership Policy Standards: ISLLC 2008, adopted by the National Policy Board for Educational Administration and posted at http://www.npbea.org/projects.php (no later additions to or editions of these standards are incorporated by this Part), as applicable; ~~and~~

3) will produce candidates for certification in areas defined as "shortage areas" by the State Superintendent of Education (e.g., the number of individuals holding a particular certificate and the number of positions that are currently vacant or predicted to be available in the next five years; the number of approved programs in Illinois and their capacity). Evidence of need shall be presented in the application submitted under Section 25.145 of this Part; and~~.~~

4) meets the State Board of Education's Social and Emotional Learning Standards set forth at 23 Ill. Adm. Code 555.Appendix A.

f) In the case of a not-for-profit entity, all advertising materials, candidate handbooks, catalogues, and candidate contracts shall display prominently the fact that the entity does not offer higher education credit and that there is no guarantee that the Illinois certificate or endorsement earned by the candidate will be honored or accepted for exchange in another state.

g) The recognition of an educational unit shall be subject to review every four years beginning in 2012. This cycle shall begin in accordance with a timeline

established by the State Superintendent of Education or designee. The approval of the educational unit's programs shall be subject to review in each year after the unit receives initial State recognition.

h) Each recognized educational unit shall submit a separate annual program report for each approved program to the State Superintendent of Education, in a format defined by the State Superintendent, no sooner than October 1 and no later than November 30. Subject-area designations (see Section 25.100(a) of this Part) shall be considered separate programs for reporting purposes. The annual program report shall:

1) update any information previously provided;

2) summarize data about the program's overall structure, faculty, and candidates, and the results of various assessments, including the effectiveness of the completers of the program from the performance evaluations conducted under Article 24A of the School Code [105 ILCS 5/Art. 24A] (to be provided for principals beginning in 2014 and for teachers beginning in 2018):

A) If at least 80 percent of an institution's teacher preparation program completers have passed the content area test and applicable form of the assessment of professional teaching (APT) in each of the preceding three years, the institution shall be deemed to be adequately addressing the Standards for All Illinois Teachers set forth at 23 Ill. Adm. Code 24;

B) If at least 80 percent of an institution's administrative certification program completers have passed the applicable content-area examinations for administrative certification in each of the preceding three years, the institution shall be deemed to be adequately addressing the standards set forth in subsection (e)(2) of this Section; and

3) as relevant to the institution, report on all programs provided by the institution that have been approved as an alternative route to certification under Sections 25.65 and 25.67 of this Part.

i) In conjunction with the review set forth in subsection (g) of this Section, each

educational unit shall submit a unit report to the State Superintendent, in a format specified by the State Superintendent, no sooner than October 1 and no later than November 30 of the academic year (i.e., September 1 through August 31) in which the review is scheduled. The report shall include:

1) a description of how the unit has addressed any concerns about applicable standards identified in any of the program reports produced pursuant to subsection (h) of this Section submitted in each of the last four years preceding the review;

2) any changes in the institution or in the educational unit that affects the operation of the unit;

3) any new programs approved in the last four years;

4) the percentage of individuals in the last four years who completed the program and received a certificate or endorsement who were hired into a related school position in the field for which the certificate or endorsement was issued; and

5) data regarding the effectiveness of the completers of the program from the performance evaluations conducted under Article 24A of the School Code [105 ILCS 5/Art. 24A] (to be provided for principals beginning in 2014 and for teachers beginning in 2018).

j) No later than April 7 of each year, each institution shall report to the State Board of Education, using a form supplied by the Board, on its program completers' pass rates on the examinations required for initial certification pursuant to this Part and other information required by Title II of the Higher Education Act (20 USCA 1027). Further, each institution shall make this information readily available to the public on an annual basis and shall include it in or with publications routinely sent to potential applicants, guidance counselors, and prospective employers of the institution's program completers.

k) State Board of Education staff may visit a recognized institution at any time with one day's advance notice and may ask to speak with faculty, candidates, or administrators. All records shall be made available to State Board of Education staff upon request.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.130 Interventions by the State Board of Education and State Teacher Certification Board

The provisions of this Section shall apply when the State Superintendent of Education receives information through the annual program report or unit report required under Section 25.115 of this Part, or by other means indicating that any educational unit recognized pursuant to this Subpart C or any approved preparation program may not be addressing any applicable standard or may otherwise be failing to offer candidates any of the learning opportunities that are necessary to their preparation as professional educators.

a) The State Superintendent or designee shall inform the affected educational unit of the areas of concern and invite the unit's representatives to appear on a date specified by the State Superintendent before the State Teacher Certification Board ("STCB") to discuss the concerns identified.

b) If the STCB determines, either after the educational unit's appearance or in advance of the appearance, that the concerns raised were unfounded or that the issues have been remedied, the STCB shall recommend to the State Superintendent that no further action is needed with regard to the matter, and the State Superintendent or designee shall notify the institution accordingly.

c) If the institution does not respond to or declines the invitation to appear before the STCB, or if the STCB concludes that the institution, after its appearance, has not satisfied the concerns raised, the STCB shall recommend to the State Superintendent or designee that the program or unit and one or more of its programs be placed on probation. "Probation" is the period of time in which no new candidates shall be enrolled in the unit or any of its programs, regardless of whether an individual program has received "probation" status. The State Superintendent shall notify the institution of the probation status of the program or unit and one or more of its programs.

1) A program, a unit, or a unit and one or more of its programs placed on probation shall submit the applicable report required under subsection (c)(1)(A) or (c)(1)(B) of this Section (in a format to be specified by the State Superintendent) to the State Superintendent or designee, who shall forward the report to the STCB for consideration. The required report shall be submitted within one year after the date on which the program or

unit was scheduled to appear before the STCB pursuant to subsection (a) of this Section. If no report is received within this year, then the approval of the program or recognition of the unit and approval of all of its programs shall be revoked. (See subsection (c)(2)(C) of this Section.)

A) In the case of one or more individual programs being placed on probation, each program about which concerns have been identified shall submit to the STCB a program report, with special emphasis on the areas of concern identified by the STCB and how those concerns will be addressed.

B) In the case of only a unit being placed on probation, the unit shall submit a report that details the concerns identified about any of the NCATE unit standards and the solutions that have been put into place to remedy those concerns.

C) In the case of both a unit and one or more of its programs being placed on probation, both subsections (c)(1)(A) and (B) shall apply.

2) The STCB, after considering the report submitted by the program or unit and the actions the program or unit has taken in response to the concerns identified, shall:

A) determine that the concerns have been remedied and recommend to the State Superintendent that the program or unit and any of its programs for which concerns have been identified be removed from probation and that no further action is needed with regard to the matter, and the State Superintendent or designee shall notify the institution accordingly; or

B) determine that the concerns have been acted upon but have not been remedied and recommend to the State Superintendent that the probation period be extended for not more than an additional 12 months, beginning on the date on which the STCB met to consider the report submitted under subsection (c)(1)(A) or (c)(1)(B):

i) Within the 12-month extension period, the program, or the unit and any of its programs for which concerns have been

identified shall resubmit the program proposal required under Section 25.145 of this Part or a report (in the case of a program or unit, respectively), and reappear before the STCB;

ii) If at the time that the program or unit reappears before the STCB or at the end of the 12-month extension period, the program or the unit and any of its programs for which concerns have been identified have not sufficiently addressed the concerns, then the STCB shall recommend to the State Superintendent that approval of the program or recognition of the unit and approval of all of its programs be revoked pursuant to the provisions of subsection (c)(2)(C) of this Section; and

iii) The State Superintendent shall notify the program or the unit and each of its programs of any action taken pursuant to this subsection (c)(2~~1~~)(B); or

C) determine that the concerns have not been acted upon and that the program proposal or actions taken as identified in the report indicate that the standards are not being met or that the program or unit may be failing otherwise to offer candidates any of the learning opportunities that are necessary to their preparation as professional educators and that these concerns cannot be remedied before the end of the 12-month extension period and recommend to the State Superintendent that the State Board of Education revoke approval of the program or recognition of the unit and approval of all of its programs. The actions to be taken upon the recommendation of the STCB to the State Superintendent under this subsection (c)(2)(C) shall be as described in Section 25.160 of this Part. Discontinuation of a program pursuant to revocation of its approval or revocation of recognition, in the case of an educational unit, shall be subject to the requirements of Section 25.165(b) of this Part.

3) The State Superintendent may accept, modify or reject any of the recommendations of the STCB issued in accordance with this ~~to~~ subsection (c)~~ of this Section~~. In cases where the State Superintendent's

modification or rejection results in an action that has negative consequences for the program or the unit and one or more of its programs, then the actions to be taken shall be as described in Section 25.160 of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART D: SCHOOL SERVICE PERSONNEL

Section 25.252 Certification of Non-Teaching Speech-Language Pathologists

Certain individuals may qualify for a school service personnel certificate with a non-teaching speech-language pathologist's endorsement, as provided in Section 14-1.09b of the School Code [105 ILCS 5/14-1.09b].

a) Each applicant shall hold one of the licenses identified in Section 14-1.09b(b)(1) of the School Code [105 ILCS 5/14-1.09b(b)(1)].

b) Each applicant shall hold a master's or doctoral degree earned through completion of a program that meets the requirements of Section 14-1.09b(b)(2) of the School Code [105 ILCS 5/14-1.09b(b)(2)]. For the purposes of this subsection (b), *a course of study or program approved or accredited* (Section 14-1.09b(b)(2) of the School Code) includes those courses of study or programs that hold either accreditation or the status of "accreditation candidate" issued by the Council on Academic Accreditation in Audiology and Speech-Language Pathology of the American Speech-Language-Hearing Association at the time that the applicant completed the program.

c) Each applicant shall have met the requirements of Section 14-1.09b(b)(3) of the School Code [105 ILCS 5/14-1.09b(b)(3)].

1) *A program of study that meets the content-area standards for speech-language pathologists approved by the State Board of Education in consultation with the State Teacher Certification Board* is a relevant preparation program that has been approved pursuant to Subpart C of this Part.

2) A comparable out-of-state program is one that leads to qualification as either a teaching or a non-teaching speech-language pathologist.

3) A comparable out-of-state certificate is one authorizing employment in the public schools in either capacity.

4) The required 150 clock hours of supervised, school-based professional experience shall consist of activities related to the aspects of practice that are addressed in the content-area standards for speech-language pathologists (see Section 25.250 of this Part and 23 Ill. Adm. Code 28 (Standards for Certification in Special Education)~~the policies of the State Board of Education, posted at www.isbe.net/rules, related to certification in special education under the federal court order of February 27, 2001, in the matter of Corey H., et al., v. Board of Education of the City of Chicago, et al.~~) with respect to:

A) planning and intervention;

B) the learning environment;

C) service delivery;

D) professional conduct and ethics; and

E) facilitation and advocacy.

5) The required evidence of completion for the 150 clock hours of supervised, school-based professional experience shall be a letter signed by the chief administrator or other designated official of the employing school district or nonpublic school documenting the nature and duration of the individual's experience with students with disabilities in a school setting. This letter shall indicate how the experience related to the knowledge and/or performance aspects of each of the standards identified in subsection (c)(4) of this Section.

d) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills, subject to the provisions of Section 25.720 of this Part.

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

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.275 Renewal of the School Service Personnel Certificate

The requirements set forth in this Section apply to renewal of school service personnel (SSP) certificates in accordance with Section 21-25 of the School Code [105 ILCS 5/21-25].

a) Pursuant to Section 21-25 of the School Code, the renewal of school service personnel certificates held by individuals employed and performing services in certain types of public schools is contingent upon certificate-holders' presentation of evidence of continuing professional development. Renewal of any affected SSP certificate whose period of validity begins on or after July 1, 2008 shall require the certificate-holder's:

1) possession of one of the State licenses identified in Section 21-25(e) of the School Code, that is:

A) current licensure as either a clinical professional counselor or a professional counselor under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107];

B) current licensure as either a clinical social worker or a social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20]; or

C) current licensure as a speech-language pathologist under the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]; or

2) possession of one of the national certifications identified in Section 21-25(e) of the School Code; or

3) completion of sufficient professional development activities to satisfy the requirements of Section 21-25 of the School Code.

b) An individual who wishes to qualify for certificate renewal based on licensure or national certification as permitted by Section 21-25 of the School Code shall maintain documentation related to the relevant license or certificate, including its

date of issue, period of validity, and issuing body. This information shall be included in the individual's application for certificate renewal in place of the statement of assurance called for in subsection (k) of this Section.

c) Completion of the certification process conducted by the National Board for Professional Teaching Standards (NBPTS) may be used to fulfill the entire requirement for professional development under subsection (a)(2) of this Section for the renewal cycle during which completion occurs. Evidence of completion of this process shall be the inclusion of the certificate-holder's name on NBPTS' composite list of those who have completed the certification process (as distinct from having received certification).

d) Except as provided in subsections (b) and (c) of this Section, *each professional development activity used to fulfill the requirements of this Section shall be required to address one or more of the purposes* set forth in Section 21-25(e) of the School Code, and *four~~three~~ of the five~~four~~ purposes must be addressed*. No later than 60 days after the State Board of Education votes to establish or change the list of *areas determined by the Board to be critical for all school service personnel* (Section 21-25 of the School Code), the State Superintendent of Education shall notify each school district superintendent, each regional superintendent of schools, and any organization that requests this notification. The notice shall include a list of the areas and state the date upon which the list takes effect.

e) CPDUs shall be generated for completion of activities in accordance with the provisions of Section 25.875 of this Part, provided that, as necessary to the context:

1) references to Section 21-14 of the School Code shall be understood to mean the comparable provisions of Section 21-25 of the School Code;

2) references to teachers, teaching, and instruction shall be understood to mean holders of the school service personnel certificate and their performance of services;

3) references to the classroom shall be understood to mean the setting where services are provided;

4) references to classes directly taught by the certificate-holder (Section 25.875(e) and (n) of this Part) shall be understood to mean students directly served by the certificate-holder;

5) references specific to the supervision or preparation of candidates for teaching certificates (Section 25.875(h) and (m) of this Part) shall be understood to mean the supervision or preparation of candidates for the school service personnel certificate;

6) references to content-area standards (Section 25.875(i) of this Part) shall be understood to mean the relevant standards set forth at 23 Ill. Adm. Code 23 (Standards for the School Service Personnel Certificate); and

7) the reference to State priorities (Section 25.875(k) of this Part) shall be understood to mean the critical areas identified by the State Board of Education pursuant to Section 21-25(e)(2) of the School Code.

f) The provisions of Sections 25.855, 25.860, 25.865, and 25.872 of this Part shall apply to the awarding of CPDUs for activities offered by providers, provided that, as necessary to the context:

1) references to Section 21-14 of the School Code shall be understood to mean the comparable provisions of Section 21-25 of the School Code;

2) references to Subpart J of this Part shall be understood as referring to this Section; and

3) references to teachers shall be understood to include holders of the school service personnel certificate.

g) Each school service personnel certificate shall be maintained as "valid and active" or "valid and exempt" for each semester of its validity. Periods of exemption and proportionate reductions in the requirements for continuing professional development shall be determined as discussed in Section 25.880(a) of this Part. In addition:

1) *the number of continuing professional development units needed to renew the certificate shall be reduced by 50 percent for any amount of time during which the certificate-holder has been employed and performing*

services on a part-time basis, i.e., for less than 50 percent of the school day or school term; and

2) *a certificate-holder who is employed as a substitute on a part-time basis or a day-to-day basis shall only be required to pay the registration fee in order to renew his or her certificate* (Section 21-25(e) of the School Code).

h) Credit earned for any activity that is completed (or for which the certificate-holder receives evidence of completion) on or after April 1 of the final year of a certificate's validity, if not claimed with respect to that period of validity, may be carried over and claimed in the subsequent period of validity, provided that the activity in question is relevant to the requirements that apply to that period.

i) Each certificate-holder shall:

1) maintain the required form of evidence of completion for each activity throughout the period of validity that follows the renewal of the certificate based on completion of the activities documented; and

2) present the evidence of completion upon request by the regional superintendent or a representative of the State Board of Education or if required as part of an appeal under this Section.

j) An Illinois master SSP certificate shall have a ten-year period of validity. When an individual receives an Illinois master SSP certificate, any other SSP certificate held by the same individual shall be renewed as of the date of issuance of the master certificate. Any other SSP certificate shall automatically qualify for renewal at the end of its five-year period of validity, as long as the individual continues to hold the master certificate.

1) When an Illinois certificate-holder successfully renews his or her National Board certification, he or she shall be entitled to renew the Illinois master SSP certificate and any other SSP certificate held if the applicable requirements of this Section have also been met.

2) The holder of an Illinois master certificate whose certification through the NBPTS is not renewed shall nevertheless be entitled to renew the master certificate when it expires, provided that the applicable requirements of

this Section have been met during the master certificate's period of validity.

k) Each holder of an SSP certificate shall apply for renewal of that certificate as set forth with respect to teaching certificates in Section 25.830 of this Part, including the submission of a statement of assurance that conforms to the requirements of subsection (b) of that Section, except that:

1) each application for certificate renewal shall be submitted to the regional superintendent of schools, regardless of whether a local professional development committee is in operation in the employing district; and

2) references to "standard" certificates in that Section shall be understood to apply to SSP certificates.

l) Within 14 days after receiving an application for the renewal of a school service personnel certificate, the regional superintendent shall forward to the State Teacher Certification Board a recommendation for renewal or nonrenewal on a form prescribed by the State Superintendent of Education.

1) The regional superintendent shall transmit a list identifying all the certificate-holders with respect to whom the regional superintendent is recommending renewal of SSP certificates, along with verification that:

A) each certificate-holder has completed professional development or otherwise qualifies for certificate renewal in accordance with the requirements of Section 21-25 of the School Code and this Section; and

B) each certificate-holder has submitted the statement of assurance required in accordance with subsection (k) of this Section.

2) If the recommendation is not to renew the certificates held, or if information provided on the application makes the individual subject to the requirements of any of Sections 25.485 through 25.490 of this Part, the certificate-holder's copy shall be sent concurrently by certified mail, return receipt requested. Each recommendation for nonrenewal shall include the regional superintendent's rationale.

m) A certificate-holder with respect to whom a regional superintendent has recommended nonrenewal of the SSP certificate may appeal to the State Teacher Certification Board in accordance with the provisions of Section 25.835(h) of this Part, except that the requirements of Section 21-25 of the School Code shall be understood to apply rather than those established by Section 21-14 of the School Code.

n) The State Teacher Certification Board shall review regional superintendents' recommendations regarding the renewal of SSP certificates and notify the affected certificate-holders in writing as to whether their certificates have been renewed or not renewed. This notification shall take place within 90 days after the State Teacher Certification Board receives regional superintendents' recommendations, subject to the right of appeal set forth in this subsection (n).

1) Within 60 days after receipt of an appeal filed by a certificate-holder challenging a regional superintendent's recommendation for nonrenewal, the State Teacher Certification Board shall hold an appeal hearing. The Board shall notify the certificate-holder of the date, time, and place of the hearing.

2) The certificate-holder shall submit to the State Teacher Certification Board such additional information as the Certification Board determines is necessary to decide the appeal.

3) The State Teacher Certification Board may request that the certificate-holder appear before it. The certificate-holder shall be given at least ten days' notice of the date, time, and place of the hearing.

4) In verifying whether the certificate-holder has met the renewal criteria set forth in Section 21-25 of the School Code, the State Teacher Certification Board shall review the recommendation of the regional superintendent of schools and all relevant documentation.

o) The State Teacher Certification Board shall notify the certificate-holder in writing, within seven days after completing its review, as to whether the SSP certificate has been renewed. Upon receipt of notification of renewal, the certificate-holder shall pay the applicable registration fee to the regional superintendent. If the decision is not to renew the certificate, the notice to the certificate-holder shall be transmitted by certified mail, return receipt requested,

and shall state the reason for the decision. The decision of the State Teacher Certification Board is final and subject to administrative review as set forth in Section 21-24 of the School Code [105 ILCS 5/21-24].

p) An individual whose certificate is not renewed because of his or her failure to meet the requirements of Section 21-25 of the School Code and this Section may apply for a reinstated certificate valid for one year. After the one-year period of validity of the reinstated certificate, the individual shall receive a renewable SSP certificate only if he or she presents evidence of having:

1) completed the balance of the professional development activities that were required for renewal of the certificate previously held; and

2) earned five additional semester hours of credit from a regionally accredited institution of higher learning relevant to the field of certification.

q) The provisions of Section 25.840(d) of this Part shall apply to the renewal of the school service personnel certificate.

r) If fewer than five years remain in the period of a certificate's validity as of July 1, 2008, the number of CPDUs required in order to renew the certificate at the conclusion of that period shall be proportionately reduced.

s) An individual who performs services both on an SSP certificate and concurrently also on some other type of certificate to which renewal requirements apply shall be subject to the provisions of Section 25.475 of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF ADMINISTRATIVE AND SUPERVISORY STAFF

Section 25.345 Chief School Business Official (2004)

This endorsement is required for chief school business officials. (See also 23 Ill. Adm. Code 29.110.)

a) Each candidate for the chief school business official's endorsement shall hold a master's degree or equivalent awarded by a regionally accredited institution of higher education. For the purposes of this subsection (a), "equivalent" shall mean the completion of a degree beyond the bachelor's degree level (e.g., juris doctor (J.D.), doctor of philosophy (Ph.D.), doctor of education (Ed.D.)).

b) Each candidate, other than a candidate whose master's degree was earned in *public administration, business administration, finance, or accounting* (Section 21-7.1(e)(3) of the School Code [105 ILCS 5/21-7.1(e)(3)]), shall:

1) have completed an Illinois program approved for the preparation of school business officials pursuant to Subpart C of this Part or a comparable approved program in another state or country or hold a comparable certificate issued by another state or country (see Section 25.425 of this Part); and

2) have *two years' administrative experience in school business management* (Section 21-7.1(e)(3) of the School Code).

c) Each candidate whose master's degree was earned in *public administration, business administration, finance, or accounting shall complete an internship in school business management equivalent to six semester hours from a regionally accredited institution of higher education* (Section 21-7.1(e)(3) of the School Code) that is conducted under the supervision of an individual~~instructor~~ who holds a current Illinois endorsement for chief school business official or who serves as the school district's chief financial officer. Institutions may consider a candidate's work experience in a school business office that is comparable to the responsibilities of a chief school business office as meeting a portion or all of the six-semester-hour internship requirement. For purposes of this subsection (c), one semester hour shall be equivalent to a minimum of 15-clock hours of experience that a candidate documents as completing.

d) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills if its passage would be required for receipt of a standard certificate pursuant to Section 25.720(a) of this Part.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 35 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Student Records

2) Code Citation: 23 Ill. Adm. Code 375

3)

Section Numbers:	Proposed Action:
375.10	Amendment
375.30	Amendment
375.40	Amendment
375.60	Amendment
375.70	Amendment
375.75	Amendment
375.80	Amendment
375.90	Amendment
375.110	Amendment

4) Statutory Authority: 105 ILCS 10 and 105 ILCS 5/2-3.13a

5) A Complete Description of the Subjects and Issues Involved: Part 375 implements the Illinois School Student Records Act [105 ILCS 10], which sets forth procedures specific to retention, maintenance and transfer of educational records of students in public elementary and secondary schools, including State-funded preschools and daycare centers. As more information is generated about students and communication systems have become more sophisticated, the number of questions from school district personnel about records requirements has increased.

The primary purpose of this rulemaking is to incorporate into Part 375 direction to school districts to help them better comply with the requirements of the Illinois School Student Records Act (ISSRA) and to provide consistency between ISSRA and federal Family Educational Rights and Privacy Act (FERPA). Additionally, changes have been made in response to recently enacted legislation.

The majority of the changes being proposed in Part 375 can be found in Section 375.10, "Definitions", and Section 375.80, "Directory Information".

The group of changes under Section 375.10 is intended to clarify the type of information that is required in the student's permanent record, which a school must retain for 60 years, and the student's temporary record, which must be retained for five years. Proposed modifications that are of particular significance include:

- more fully explaining the role and responsibilities of a school's records custodian;
- distinguishing between certain health information necessary for a student's enrollment, such as examinations and immunization data, that is to be included in the permanent record, and other health and accident information that must be retained in the temporary record;
- providing a definition of "individually identifiable" information that aligns to FERPA requirements; and
- addressing limitations on the consideration of video- or other electronic recordings as student records; this proposed modification also incorporates the provisions of PA 95-352, effective August 23, 2007, regarding recordings on school buses.

Section 375.80, last amended in 1986, includes substantial updating that acknowledges the proliferation of electronic and digital images and enables school districts to use these images on their websites and in other publications without having to first secure parental approval for their use. The proposed amendments also prohibit the use of a student's social security number or unique student identifier as directory information. Additionally, changes are proposed to provide flexibility to determine at the local level the procedures parents should use to request that directory information not be released. Currently, the rules require school districts to notify parents prior to each occurrence when directory information is being released.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER k: SCHOOL RECORDS

PART 375
STUDENT RECORDS

Section
375.10 Definitions
375.20 Rights of Students
375.30 Notification
375.40 Maintenance and Destruction of School Student Records
375.50 Cost for Copies of Records
375.60 Emergency Release of Information
375.70 Release of Information
375.75 Public and Nonpublic Schools: Transmission of Records for Transfer Students
375.80 Directory Information
375.90 Challenge Procedures
375.100 Implementation
375.110 Enforcement

AUTHORITY: Implementing and authorized by the Illinois School Student Records Act [105 ILCS 10] and Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a].

SOURCE: Emergency rule adopted March 24, 1976; codified at 7 Ill. Reg. 12864; amended at 10 Ill. Reg. 12602, effective July 9, 1986; amended at 12 Ill. Reg. 4818, effective February 25, 1988; amended at 20 Ill. Reg. 15304, effective November 18, 1996; amended at 23 Ill. Reg. 13843, effective November 8, 1999; amended at 26 Ill. Reg. 16202, effective October 21, 2002; amended at 29 Ill. Reg. 5467, effective March 29, 2005; amended at 32 Ill. Reg. 7143, effective April 17, 2008; amended at 32 Ill. Reg. 16475, effective September 29, 2008; amended at 35 Ill. Reg. _____, effective _____.

Section 375.10 Definitions

"Accident Report" means documentation of any reportable student accident that results in an injury to a student, occurring on the way to or from school or on school grounds, at a school athletic event or when a student is participating in a school program or school-sponsored activity or on a school bus and that is severe

enough to cause the student not to be in attendance for one-half day or more or requires medical treatment other than first aid. The accident report shall include identifying information, nature of injury, days lost, cause of injury, location of accident, medical treatment given to the student at the time of the accident, or whether the school nurse has referred the student for a medical evaluation, regardless of whether the parent, guardian or student (if 18 years or older) or an unaccompanied homeless youth (as defined by 42 USC 11434a) has followed through on that request.

"Act" means the Illinois School Student Records Act [105 ILCS 10].

"Health Record" means medical documentation necessary for enrollment and proof of dental examinations, as may be required under Section 27-8.1 of the School Code [105 ILCS 5/27-8.1].

"Health-related Information" means current documentation of a student's health information, which includes identifying information, health history, results of mandated testing and screenings, medical diagnoses (e.g., diabetes, seizures, life-threatening allergies, severe asthma, depression, attention deficit disorder), medication dispensation records and logs (e.g., glucose readings), long-term medications administered during school hours, and summary of relevant health office interactions and referrals, as well as other health-related information that is relevant to school participation (e.g., nursing services plan, failed screenings, yearly sports physical exams, interim health histories for sports).

"Individually Identified" means information that would enable a reasonable person in the school community to identify the student and includes, but is not limited to, the following:

Student's first and last name;

The initials of the student's first and last name when combined with other information that is specific to a student (e.g., grade level, teacher);

Student's date of birth;

Student's school identification number or Social Security Number;

Name of the student's parent or guardian or of other immediate family members;

Home address of the student or his or her immediate family; and

Telephone numbers of the student or his or her parents.

"Official Records Custodian" means the individual appointed in each school in accordance with Section 4 of the Act [105 ILCS 10/4] who shall determine the records to be maintained in the student temporary record in accordance with the Act and this Part, provided that the records are created and maintained for a clear, educational purpose and are accurate, relevant, not misleading and reflective of official decision-making in relation to the student's education.

"School Student Record" shall have the meaning set forth in Section 2(d) of the Act [105 ILCS 10/2(d)], except that school student records shall not include:

Video or other electronic recordings created and maintained by law enforcement professionals working in the school or for security or safety reasons or purposes, provided the information was created at least in part for law enforcement or security or safety reasons or purposes; and

Electronic recordings made on school buses, as defined in Section 14-3 of the Criminal Code of 1961 [720 ILCS 5/14-3].

"Special Education Records" means school records that relate to identification, evaluation or placement of, or the provision of a free and appropriate public education to, students with disabilities under the Individuals with Disabilities Education Act (20 USC 1400 et seq.) and Article 14 of the School Code [105 ILCS 5/Art. 14], to include the report of the multidisciplinary staffing conference on which placement or nonplacement was based and all records and audio recordings in any format relating to special education placement hearings and appeals.

"Student Permanent Record" means and shall consist of the following, as limited by Section 2(d) of the Act ~~[105 ILCS 10/2(d)]~~:

Basic identifying information, including the student's name and address, birth date and place, and gender, and the names and addresses of the

student's parents;

Academic transcript, including grades, class rank, graduation date, grade level achieved, scores on college entrance examinations, and the unique student identifier assigned and used by the Student Information System established pursuant to Section 1.75 of rules governing Public Schools Evaluation, Recognition and Supervision (see 23 Ill. Adm. Code 1.75);

Attendance record;

Health ~~Accident reports and health~~ record;

Record of release of permanent record information in accordance with Section 6(c) of the Act [105 ILCS 10/6(c)]; ~~and~~

Scores received on all State assessment tests administered at the high school level (i.e., grades 9 through 12) (see 105 ILCS 5/2-3.64(a)); and

If not maintained in the temporary record, may~~May~~ also consist of:

Honors and awards received; and

Information concerning participation in school-sponsored activities or athletics, or offices held in school-sponsored organizations.

No other information shall be placed in the student permanent record.

"Student Temporary Record" means all information not required to be in the student permanent record and shall consist of the following, as limited by Section 2(d) of the Act:

A record of release of temporary record information in accordance with Section 6(c) of the Act [105 ILCS 10/6(c)];

Scores received on the State assessment tests administered in the elementary grade levels (i.e., kindergarten through grade 8) (see 105 ILCS 5/2-3.64(a));

The completed home language survey form (see 23 Ill. Adm. Code

228.15);

Information regarding serious disciplinary infractions (i.e., those involving drugs, weapons, or bodily harm to another) *that resulted in expulsion, suspension or the imposition of punishment or sanction*;

Information provided under Section 8.6 of the Abused and Neglected Child Reporting Act [325 ILCS 5/8.6], as required by Section 2(f) of the Act [105 ILCS 10/2(f)]; ~~and~~

Any biometric information that is collected in accordance with Section 10-20.40 or 34-18.34 of the School Code [105 ILCS 5/10-20.40 or 34-18.34]; ~~and~~

Health-related information; and

Accident Reports; and

May also consist of:

Family background information;

Intelligence test scores, group and individual;

Aptitude test scores;

Reports of psychological evaluations, including information on intelligence, personality and academic information obtained through test administration, observation, or interviews;

Elementary and secondary achievement level test results;

Participation in extracurricular activities, including any offices held in school-sponsored clubs or organizations;

Honors and awards received;

Teacher anecdotal records;

Other disciplinary information;

Special education records~~files, including the report of the multidisciplinary staffing on which placement or nonplacement was based, and all records and tape recordings relating to special education placement hearings and appeals~~;

Records associated with plans developed under section 504 of the Rehabilitation Act of 1973 (29 USC 701 et seq.);

Records of social workers, counselors and psychologists who are employed by, under contract to, or otherwise acting on behalf of the school that are of clear relevance to the education of the student; and

Any verified reports or information from non-educational persons, agencies or organizations~~; and Other verified information~~ of clear relevance to the education of the student.

~~"Substitute" means a person designated by the school to temporarily serve in the event of absence of a person employed by the school.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 375.30 Notification

a) Upon the initial enrollment or transfer of a student to the school, the school shall notify the student and the student's parents of their rights under the Act as specified in subsection (d) of this Section and of their rights with respect to the collection, distribution, and retention of biometric information under Section 10-20.40 or 34-18.34 of the School Code, if the school collects student biometric information.

b) All notification under this Part to parents of children classified under Section 14C-3 of the School Code [105 ILCS 5/14C-3] to be of limited English-speaking ability shall be in English and in the language of the child's primary speaking ability. All notifications shall be in a manner that is accessible to parents with disabilities.

c) This notification may be delivered by any means likely to reach the parents,

including direct mail or email, parent-teacher conferences, delivery by the student to the parent, or incorporation in a "parent-student" handbook or other informational brochure for students and parents disseminated by the school.

d) The notification shall consist of:

1) The types of information contained in the permanent and temporary records;

2) The right to inspect and copy permanent and temporary records, the limitations on the right of access established under Sections 10-22.3c and 34-18.6a of the School Code [105 ILCS 5/10-22.3c and 34-18.6a] and Section 5(a) of the Act, and the cost of copying these~~such~~ records;

3) The right to control access and release of school student records, except to the extent the records are authorized by law to be released without consent, and the right to request a copy of information released;

4) The rights and procedures for challenging the contents of the school student record;

5) The persons, agencies or organizations having access to student records without parental consent;

6) The right to copy any school student record or information contained therein proposed to be destroyed or deleted and the school's schedule for reviewing and destroying this~~such~~ information;

7) The categories of information the school has designated as "directory information" and the right of the parents to prohibit the release of this~~such~~ information;

8) A statement informing the parents that no person may condition the granting or withholding of any right, privilege or benefits or make as a condition of employment, credit or insurance the securing by any individual of any information from a student's temporary record that the individual may obtain through the exercise of any right secured under the Act or this Part;

9) The right of the parents, as limited by Section 7 of the Act, to inspect and challenge the information contained in a school student record prior to transfer of the record to another school district, in the event of the transfer of the student to that district; and

10) Any policies of the school relating to school student records that are not included in the Act or this Part, including any policy related to the collection of biometric information as permitted under Section 10-20.40 or 34-18.34 of the School Code.

e) *The principal of each school or the person with like responsibilities or his or her designate shall take all action necessary to assure that school personnel are informed of the provisions of the Act* and this Part, either orally or in writing [105 ILCS 10/3].

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 375.40 Maintenance and Destruction of School Student Records

a) The provisions within the Act and this Part requiring the official records custodian to separate school student records~~be separated~~ into permanent and temporary categories shall apply only to records of students who are enrolled in the school on or after the effective date of this Part. Records of students who have graduated or permanently withdrawn prior to the effective date of this Part are not subject to these classifications except:

1) In compliance with the request of a parent or eligible student that this~~such~~ categorization occur; and

2) The official records custodian shall ensure that information characterized by the Act and this Part as "temporary" shall not be *disclosed except as provided by Section 5 or 6 of the Act or by court order* [105 ILCS 10/4(f)]. For the purposes of this subsection (a)(2), a court order is a document signed by a judge or an attorney. A subpoena signed by a court clerk or administrative agency official shall not be considered a court order unless signed by a judge or attorney.

b) Pursuant to Section 4(g) of the Act [105 ILCS 5/4(g)], student temporary~~Student~~ records shall be reviewed every four years or upon a student's change in

attendance centers, whichever occurs first, to verify entries and to eliminate or correct all out-of-date, misleading, inaccurate, unnecessary or irrelevant information pursuant to Section 375.10 of this Part. The records review is required in any given school year at the time a student first changes attendance centers within a district, but it does not need to be conducted if the student enrolls in a different attendance center later in that same school year.

c) Upon graduation, transfer or permanent withdrawal of a student from a school, the school shall notify the parents and the student of the destruction schedule for the student permanent record and the student temporary record and of the right to request a copy of the student's~~such~~ records at any time prior to their destruction. Notification shall consist of the following: date of notification, name of parent, name of official records custodian, name of student, and the scheduled destruction date of temporary and permanent records. Biometric information collected pursuant to the district's policy, if any, shall not be subject to the retention requirements applicable to the remainder of students' temporary records under Section 4(f) of the Act, and its destruction shall not be subject to authorization by the appropriate Local Records Commission under Section 7 of the Local Records Act [50 ILCS 205/7]. Instead, the destruction of students' biometric information shall conform to the requirements of Section 10-20.40 or 34-34.18 of the School Code, as applicable.

d) Upon graduation or permanent withdrawal of a ~~handicapped~~ student with a disability, as defined in Article 14 of the School Code [105 ILCS 5/Art. 14] and 23 Ill. Adm. Code 226: Subpart A (Special Education), special education records,~~psychological evaluations, special education files~~ and other information contained in the student temporary record that~~which~~ may be of continued assistance to the student may, after five years, be transferred to the custody of the parent or to the student if the student has succeeded to the rights of the parents. The school shall explain to the student and the parent the future usefulness of these records.

e) If a certified copy of an order of protection has been filed with a school district, then the district shall notify its school employees that the student records or information in those records of a protected child identified in the order shall not be released to the person against whom the order was issued (see Section 222(f) of the Illinois Domestic Violence Act of 1986 [750 ILCS 60/222(f)]).

f) Any final finding report required by Section 8.6 of the Abused and Neglected

Child Reporting Act that has been filed in a student's temporary record shall be removed from the student's record and returned to the Department of Children and Family Services upon written request made by the Department pursuant to Section 8.6 of the Abused and Neglected Child Reporting Act. If a school that receives ~~such~~ a request from the Department has transferred the report to another school as part of the transfer of the student's records, the sending school shall forward a copy of the Department's request to the receiving school, which shall comply with this subsection (f). No report other than what is required under Section 8.6 of the Abused and Neglected Child Reporting Act shall be placed in the school student record.

g) School student records shall be maintained for at least the period of time set forth in Section 4 of the Act. With the exception of material eliminated in accordance with subsections (b), (d) and (f) of this Section, the destruction or disposal of any records or information contained in those records shall be subject to the provisions of the Act and authorization by the appropriate Local Records Commission (see Section 7 of the Local Records Act).

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 375.60 Emergency Release of Information

a) Information may be released without parental consent, in connection with an articulable and significant threat to the health or safety of a student or other individuals or other emergency, to appropriate persons if the knowledge of the requested~~such~~ information is necessary to protect the health or safety of the student or other individuals~~persons~~, provided that the parents are notified, no later than the next school day after the date that~~as soon as possible of~~ the information is released, of the date of the release;~~,~~ the person, agency, or organization receiving the information;~~,~~ and the purpose of the release.

b) Factors to be considered in determining whether records should be released pursuant to this Section~~this paragraph~~ include:

1) The seriousness of the threat to the health or safety of the student or other individuals~~persons~~;

2) The need for the requested~~such~~ records to meet the emergency;

3) Whether the individuals~~persons~~ to whom the requested~~such~~ records are released are in a position to deal with the emergency;

4) The extent to which time is of the essence in dealing with the emergency.

c) When an emergency release of information is provided under this Section, the school or school district shall make a record of the nature of the threat that formed the basis for the disclosure and the parties to whom the school or district disclosed the information.~~The requirements and criteria for release of information pursuant to this Section are to be strictly construed.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 375.70 Release of Information

a) Except as otherwise provided in Section 375.75 of this Part, the records of a student shall be transferred by the official records custodian of a school to another school in which the student has enrolled or intends to enroll upon the request of the official records custodian of the other school or the student, provided that the parent receives prior written notice of the nature and substance of the information to be transferred and opportunity to inspect, copy, and challenge the~~such~~ information to be released.

1) If the address of the parents is unknown, notice may be served upon the official records custodian of the requesting school for transmittal to the parents. This service shall be deemed conclusive, and ten calendar days after this service, if the parents make no objection, the records may be transferred to the requesting school.

2) Biometric information collected pursuant to a district's policy, if any, shall not be transferred to another school district in which a student has enrolled and shall be destroyed as provided in Section 10-20.40 or 34-18.34 of the School Code, as applicable.

3) A copy of records transmitted pursuant to this subsection (a) shall be transferred back to the sending school upon request of the sending school without parental or student notice and consent.

b) The school shall grant access to information contained in school student records

to persons authorized or required by State or federal law to gain ~~such~~ access, provided that:

1) The person making the request shall provide the school with appropriate identification and a copy of the statute authorizing ~~such~~ access; and

2) The parent receives prior written notice of the nature and substance of the information to be released and an opportunity to inspect, copy and/or challenge that~~such~~ information. If this release of information relates to more than 25 students, this prior notice may be given in a local newspaper of general circulation or other publication directed generally to parents.

c) The school shall grant access to, or release information from, school student records without parental consent or notification only in accordance with the provisions of Section 6(a) of the Act [105 ILCS 10/6(a)] and Section 10-20.40 or 34-18.34 of the School Code, where applicable.

d) Pursuant to Section 6(a)(5) of the Act, parents of students who are named in a court order shall be deemed to have received the required written notice. The school shall respond to the order no earlier than five school days after its receipt in order to afford parents the opportunity to review, inspect and challenge the records if the parents choose to do so.

e~~d~~) Any release of information other than specified in subsections (a) through (c) of this Section requires the prior, specific, dated, written consent of the parent designating the person to whom the records may be released, the reason for the release, and the specific records to be released. At the time consent is requested or obtained, the school shall inform the parents of the following rights:

1) To inspect and copy the records;

2) To challenge the contents of the records; and

3) To limit any consent to designated records or designated portions of information within the records.

f~~e~~) Release of information by school personnel shall conform to the requirements of Sections 10-22.3c and 34-18.6a of the School Code [105 ILCS 5/10-22.3c and 34-18.6a] and Section 5(a) of the Act, as limited by Section 5(f) of the Act.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 375.75 Public and Nonpublic Schools: Transmission of Records for Transfer Students

a) This Section implements Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a], Section 5 of the Missing Children Records Act [325 ILCS 50/5] and Section 5 of the Missing Children Registration Law [325 ILCS 55/5]. This Section is applicable to all public, private or nonpublic elementary and secondary schools in the State of Illinois.

b) Within 14 days after enrolling a transfer student, an elementary or secondary school shall comply with the requirements of Section 5 of the Missing Children Records Act and Section 5 of the Missing Children Registration Law regarding the records of that~~such~~ transfer student. The transfer of the record by a public school is subject to the prior notice to parents required by Section 375.70(a) of this Part.

c) The school district or private school holding the records shall transfer a certified copy of student's record, as defined in subsection (h) of this Section, to the school district or private school requesting the records and shall retain the original records in accordance with the requirements of Section 4 of the Act.

d~~c~~) A request made pursuant to subsection (b) of this Section for a certified copy of a student's record shall satisfy the requirement of Section 2-3.13a(c) of the School Code regarding documentation of enrollment of a transfer student.

e~~d~~) If, on or before July 31 following the school year in which~~within 150 days after~~ a student leaves a school, the student's~~that~~ school or school district has not received a request for the student's record, or been presented with other documentation that the student has enrolled in another school, then the student shall be counted in the school's or school district's calculation of its annual dropout rate (see Section 2-3.13a(c) of the School Code). The school or school district from which a student transfers shall maintain any documentation of the student's transfer, including records indicating the school or school district to which the student transferred, in that student's temporary record.

f~~e~~) As used in this Section, "Unofficial Record of Student Grades" means written

information relative to the grade levels and subjects in which a student was enrolled and the record of academic grades achieved by that student prior to transfer. These~~Such~~ records shall also include the name and address of the school, the name of the student to whom the records pertain, the name and title of the school official transmitting the records, and the date of transmittal.

g~~f~~) As used in this Section, "Official Transcript of Scholastic Records" means the formal record showing dates of enrollment; courses studied; grades, credits, and awards received; and the unique student identifier assigned and used by the Student Information System; and bearing the signature and title of the certifying official, the seal of the school, if any, and the date of issue.

h~~g~~) As used in this Section, "Certified Copy of Student's Record" means:

1) for public schools, the student's permanent and temporary record as defined in Section 375.10 of this Part; and

2) for private and nonpublic schools, the individual student information maintained by the~~such~~ schools for all of their students. This~~Such~~ information may include:

A) Basic identifying information, including the student's name and address, birth date and place, and gender, and the names and addresses of the student's parents;

B) Academic transcript, including grades, class rank, graduation date, grade level achieved and scores on college entrance examinations;

C) Attendance record;

D) Accident reports and health record;

E) Honors and awards received; and

F) Information concerning participation in school-sponsored activities or athletics, or offices held in school-sponsored organizations.

i~~h~~) If the student has unpaid fines, ~~or~~ fees, or tuition charged pursuant to Section 10-20.12a of the School Code [105 ILCS 5/10-20.12a] and is transferring to a public

school located in Illinois or any other state, the school may elect to include in the student's record transferred pursuant to this Section the unofficial record of the student's grades in lieu of the student's official transcript of scholastic records. If the school so elects, the school shall within 10 calendar days after the student has paid all of his or her unpaid fines or fees and at its own expense forward the student's official transcript of scholastic records to the student's new school.

j~~i~~) If the student is transferring to another public school located in Illinois or any other state and at the time of the transfer is currently serving a term of suspension or expulsion for any reason, then the transferring school shall include with the transferred records:

1) the date and duration of the period of any current suspension or expulsion; and

2) whether the suspension or expulsion is for *knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act* (20 USC 8921 et seq.), *for knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or for battering a staff member of the school*. (Section 2-3.13a of the School Code)

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 375.80 Directory Information

a) Information that may be designated as directory information shall be limited to:

1) Identifying information: student's name, address, gender, grade level, and birth date and place, and parents' names, mailing ~~and~~ addresses, electronic mail addresses, and telephone numbers;

2) Photographs, videos, or digital images used for informational or news-related purposes (whether by a media outlet or by the school) of a student participating in school or school-sponsored activities, organizations, and athletics that have appeared in school publications, such as yearbooks, newspapers, or sporting or fine arts programs, except that:

A) No photograph highlighting individual faces shall be used for commercial purposes, including solicitation, advertising, promotion or fundraising, without the prior, specific, dated and written consent of the parent or student, as applicable [765 ILCS 1075/30]; and

B) No image on a school security videotape recording shall be designated as directory information;

3~~2~~) Academic awards, degrees, and honors;

4~~3~~) Information in relation to school-sponsored activities, organizations, and athletics;

5~~4~~) Major field of study; and~~,~~

6~~5~~) Period of attendance in the school.

b) No student Social Security Number (SSN) or student identification (ID) or unique student identifier can be designated as directory information.

c~~b~~) "Directory Information" may be released to the general public, unless a parent requests that any or all the directory~~such~~ information not be released on his/her child. School districts shall notify parents annually of the information that is considered to be "directory information" and of the procedures to be used by parents to request that specific information not be released.~~Prior to the release of directory information, school districts must notify affected parents in writing. The notification must include the following: date of notification, parents' names, name of student, directory information to be released, and the scheduled date of release. The district may provide this notification in the manner specified in Section 375.30 (c) and (d) of this Part.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 375.90 Challenge Procedures

a) Parents shall be notified both of their right to a hearing to challenge any entry in the school student records except for academic grades and of the name and contact information for the official records custodian. If the challenge is made at

the time the student's school records are being forwarded to another school to which the student is transferring, then parents shall not have the right to challenge references in those records to expulsions or out-of-school suspensions or to academic grades. Challenges to any other entry in the school student records can be made on the basis of:

1) accuracy;

2) relevance; or

3) propriety.

b) The request for a hearing shall be submitted in writing to the school district's official records custodian and shall contain notice of the specific entry or entries to be challenged and the basis of the challenge.

c) Each school shall establish administrative procedures for parents to challenge the contents of student records. These~~Such~~ procedures shall include:

1) An initial informal conference with the parents, within 15 school days of receipt of the request for a hearing.

2) If the challenge is not resolved by the informal conference, formal procedures shall be initiated.

A) A hearing officer, who shall not be employed in the attendance center in which the student is enrolled, shall be appointed by the school.

B) The hearing officer shall conduct a hearing within a reasonable time, but no later than 15 days after the informal conference, unless an extension of time is agreed upon by the parents and school officials. The hearing officer shall notify parents and school officials of the time and place of the hearing.

C) At the hearing each party shall have the rights outlined in Section~~Sections~~ 7(b)(1) through 7(b)(4) of the Act.

D) A verbatim record of the hearing shall be made by a tape recorder

or a court reporter. A typewritten transcript may be prepared by either party in the event of an appeal of the hearing officer's decision. However, a typewritten transcript is not required in an appeal.

E) The written decision of the hearing officer shall, no later than 10 school days after the conclusion of the hearing, be transmitted to the parents and the school district. It shall be based solely on the information presented at the hearing and shall be one of the following:

i) To retain the challenged contents of the student record;

ii) To remove the challenged contents of the student record; or

iii) To change, clarify or add to the challenged contents of the student record.

d) Any party shall have the right to appeal the decision of the local hearing officer to the Regional Superintendent within 20 school days after the~~such~~ decision is transmitted. If the parent appeals, the parent shall so inform the school and within 10 school days the school shall forward a transcript of the hearing, a copy of the record entry in question and any other pertinent materials to the Regional Superintendent. The school may initiate an appeal by the same procedures. Upon receipt of the~~such~~ documents, the Regional Superintendent shall examine the documents and record to determine whether the school district's proposed action in regard to the student's record is in compliance with the Act and this Part, make findings and issue a written decision to the parents and the school within 20 school days of the receipt of the appeal documents. If the subject of the appeal involves the accuracy, relevance or propriety of any entry in special education records, the Regional Superintendent should seek advice from special education personnel:

1) who were not authors of the entry, and

2) whose special education skills are relevant to the subjects~~subject(s)~~ of the entry in question.

e) The school shall be responsible for implementing the decision of the Regional

Superintendent.

f) Final decisions of the Regional Superintendent may be appealed to the circuit court of the county in which the school is located (see Section 7(c) of the Act).

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 375.110 Enforcement

a) The State Board of Education shall collect and maintain information concerning compliance with the provisions of the Act and this Part and shall take action as specified by the Act to secure compliance in the event of violation.

b) Complaints arising from violations of the Act or this Part, other than challenges of the contents of the school student records as specified in Section 375.90 of this Part, shall be directed to the Regional Superintendent of Schools responsible for the area where the school is located~~Superintendent of the Educational Service Region~~ and then to the State Superintendent of Education as specified in Sections 3-10 and 2-3.8 of the School Code [105 ILCS 5/3-10 and 2-3.8].

(Source: Amended at 35 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Voluntary Registration and Recognition of Nonpublic Schools

2) Code Citation: 23 Ill. Adm. Code 425

3)

Section Numbers:	Proposed Action:
425.20	Amendment
425.30	Amendment
425.40	Amendment
425.50	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6 and 2-3.51.5

5) A Complete Description of the Subjects and Issues Involved: This set of proposed amendments addresses several Sections of Part 425 to incorporate modifications requested by representatives of Catholic and other religious schools in the State and to address staff concerns over administration of the nonpublic school recognition program.

Section 425.20 is being amended to move the deadline for registration renewal back from December 31 to November 15. This change will allow for earlier visits to those nonpublic schools asking for State recognition status, since those schools must have first completed registration before an on-site visit can occur. An amendment to Section 425.30 will stipulate that schools applying for State recognition must meet the new registration deadline of November 15 or they will not be considered for recognition in the remainder of the school year.

Sections 425.30, 425.40, and 425.50 are being amended to allow a recognized school to retain that status at the start of a new school year, if the school was registered during the previous school year. With these modifications, a recognized school would retain its classification at the start of the new school year until its status was determined later in the school year, instead of automatically losing that status at the end of the previous school year. These amendments are consistent with past agency procedures for schools that are State-recognized.

A proposed amendment to Section 425.50(a)(1) would change references to visits every seventh year to "periodic visits." Agency staff have suggested this change to acknowledge that the agency's current staffing levels do not allow for on-site visits of recognized schools to be conducted every seven years.

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NOTICE OF PROPOSED AMENDMENTS

A suggested modification to Section 425.20(a) would require nonpublic schools applying for initial registration (which is a paper process) to submit materials by June 25 in order for necessary coding of the school and entry into the agency's electronic database to be completed by June 30, the end of the fiscal year.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

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

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

217/782-5270

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

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

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A) Types of small businesses, small municipalities and not-for-profit corporations affected: Some of the nonpublic schools may be organized as small businesses or not-for-profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: The chief administrator of each school registering or seeking recognition must submit the relevant application and other information required by this Part.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER l: NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

PART 425
VOLUNTARY REGISTRATION AND RECOGNITION OF NONPUBLIC SCHOOLS

Section

425.10 Purpose and Applicability
425.20 Requirements for Registration
425.30 Requirements for Recognition
425.40 Process for Initial Recognition
425.50 Renewal of Recognition
425.60 Changes in Recognition Status
425.70 Appeals
425.80 Block Grant Funds

AUTHORITY: Implementing Sections 2-3.25o and 2-3.51.5 and authorized by Sections 2-3.6 and 2-3.51.5 of the School Code [105 ILCS 5/2-3.25o, 2-3.51.5, and 2-3.6].

SOURCE: Adopted at 33 Ill. Reg. 17123, effective December 7, 2009; amended at 35 Ill. Reg. _____, effective _____.

Section 425.20 Requirements for Registration

a) The State Superintendent of Education shall make available a form to be used for nonpublic schools' voluntary registration. A school's initial registration may occur at any time from October 1 through June 30 of the relevant school year. ~~The application for renewal of a school's registration in any subsequent year must be submitted no sooner than October 1 and no later than December 31 of that school year.~~ Initial registration of a school shall occur by means of a paper submission~~, while annual renewal of a school's registration shall be performed electronically~~. Each paper registration form shall bear the signature of the school's chief administrative officer and must be received by the Illinois State Board of Education no later than June 25 for the school to be registered by June 30. ~~The required electronic format shall be submitted only by the authorized administrator.~~

1)~~a)~~ Descriptive information that must be submitted shall include:

A)~~1)~~ the name of the school, its location and telephone number, its affiliation, and the name of the chief administrator;

B)~~2)~~ data on the students enrolled, by race, ethnicity, and grade level; and

C)~~3)~~ data on the staff employed in various capacities.

2)~~b)~~ The chief administrator of each school shall provide assurances that:

A)~~1)~~ the school offers an academic term of at least 176 days of pupil attendance annually, with at least five clock hours of instruction daily or at least 880 clock hours of instruction annually;

B)~~2)~~ the school *provides instruction in English,* except as otherwise permitted pursuant to Section 27-2 of the School Code [105 ILCS 5/27-2], *in the branches of education taught to children of corresponding age and grade in the public schools* (Section 26-1 of the School Code [105 ILCS 5/26-1]), *including the language arts, mathematics, the biological, physical and social sciences, the fine arts, and physical development and health* (Section 27-1 of the School Code [105 ILCS 5/27-1]);

C)~~3)~~ the school requires the students who are enrolled to attend daily during the entire regular school term;

D)~~4)~~ the physical facilities occupied by the school comply with the applicable local building code and fire safety requirements;

E)~~5)~~ the school will require evidence that, and will furnish to the State Superintendent of Education the required reports regarding the extent to which, students have complied with the requirements of Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 665 with respect to health examinations, immunizations, eye examinations, and dental examinations; and will cooperate in the implementation of the Child Vision and Hearing Test Act [410

ILCS 205] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 675 and 685 regarding hearing and vision screenings, respectively; and

F)~~6)~~ the school complies with applicable federal and State laws prohibiting discrimination, including, but not limited to, Title IX of the Education Amendments of 1972 (20 USC 1681 et seq.), the Individuals with Disabilities Education Improvement Act (20 USC 1400 et seq.), the Age Discrimination in Employment Act of 1967 (29 USC 621 et seq.), Titles VI and VII of the Civil Rights Act of 1964 (42 USC 2000d et seq., 2000e et seq.), the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.), the Illinois School Code [105 ILCS 5], and relevant case law, including Plyler v. Doe, 457 U.S. 202, 102 S. Ct. 2382 (1982).

b)~~c)~~ Upon receipt of complete information for initial registration, including the required assurances, the State Superintendent shall assign a unique identifying number to the school. This number shall be evidence of completed registration and shall permit the school's chief administrator to apply for a user account affording access to the Illinois Web Application Security (IWAS) System, which the school may then use to exchange information with the State Superintendent of Education as relevant to its situation.

c) The application for renewal of a school's registration in any subsequent year must be submitted no sooner than October 1 and no later than November 15 of that school year. Annual renewal of a school's registration shall be performed electronically and shall be submitted only by the chief administrator.

d) The chief administrator of each school applying to renew its registration shall submit to the Illinois State Board of Education the same information and assurances required in subsection (a) of this Section.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 425.30 Requirements for Recognition

No nonpublic school shall apply for recognition ~~until it has been registered for at least one full calendar year and~~ unless it was~~is~~ registered for the previous school~~current~~ year, except that a school whose educational program is delivered via correspondence may seek recognition without

registration, in acknowledgment of the fact that students participating in a school of this type do not gather in a physical location and thus the school does not provide assurances about their compliance with requirements for health examinations, as required for registration under Section 2-3.25o(b) of the School Code. Recognition shall be granted only to schools that meet the requirements of this Section. A nonpublic school applying for recognition that has not applied for registration renewal by November 15 of the year in which the recognition application is submitted shall not be considered for recognition during the remainder of that school year.

a) Administrative Requirements

1) Each school's recognition shall be contingent upon evidence of compliance with the administrative requirements that are made applicable to nonpublic schools by relevant statutes.

A) The school shall offer an academic term of at least 176 days of pupil attendance annually, with at least five clock hours of instruction daily or at least 880 clock hours of instruction annually.

B) The school shall require the students who are enrolled to attend daily during the entire regular school term.

C) The school shall comply with applicable federal and State laws prohibiting discrimination, including, but not limited to, Title IX of the Education Amendments of 1972 (20 USC 1681 et seq.), the Individuals with Disabilities Education Improvement Act (20 USC 1400 et seq.), the Age Discrimination in Employment Act of 1967 (29 USC 621 et seq.), Titles VI and VII of the Civil Rights Act of 1964 (42 USC 2000d et seq., 2000e et seq.), the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.), the Illinois School Code [105 ILCS 5], and relevant case law, including Plyler v. Doe, 457 U.S. 202, 102 S. Ct. 2382 (1982).

D) The school shall comply with the requirements of Section 4 of the Abused and Neglected Child Reporting Act [325 ILCS 5/4], Section 5 of the Missing Children Records Act [325 ILCS 50/5], Section 5 of the Missing Children Registration Law [325 ILCS 55/5], and the rules of the State Board of Education promulgated pursuant to Section 2-3.13a of the School Code [105 ILCS 5/2-

3.13a] (see 23 Ill. Adm. Code 375.75, Public and Nonpublic Schools: Transmission of Records for Transfer Students).

E) The school shall comply with the requirements of the School Reporting of Drug Violations Act [105 ILCS 127].

F) The school shall comply with the requirements of Sections 10-27.1A and 10-27.1B of the School Code [105 ILCS 5/10-27.1A and 10-27.1B] regarding firearms and drug-related incidents in schools.

G) The school shall comply with the requirements of Section 10-21.7 of the School Code [105 ILCS 5/10-21.7] regarding the reporting of attacks on school personnel.

2) Recognition shall also be contingent upon evidence of compliance with the additional administrative requirements of this subsection (a)(2).

A) The school shall maintain written descriptions of its governance structure and its policy-making procedure, shall maintain its policies in written form, and shall make its policies routinely available to parents of the students enrolled and to school staff, as well as to other individuals upon request.

B) The school shall maintain a written description of its methods for complying with the nondiscrimination requirements identified in subsection (a)(1)(C) of this Section.

b) Educational Program
Each school's recognition shall be contingent upon evidence of compliance with the programmatic requirements that are made applicable to nonpublic schools by relevant statutes.

1) *Instruction shall be provided in English,* except as otherwise permitted pursuant to Section 27-2 of the School Code [105 ILCS 5/27-2], *in the branches of education taught to children of corresponding age and grade in the public schools* (Section 26-1 of the School Code), *including the language arts, mathematics, the biological, physical and social sciences,*

the fine arts, and physical development and health (Section 27-1 of the School Code).

2) *Each school…shall provide instruction in American patriotism, the principles of representative government, as enunciated in the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois, and the proper use and display of the American flag, and shall require pupils to recite the Pledge of Allegiance daily*. (Sections 27-3 and 27-4 of the School Code [105 ILCS 5/27-3 and 27-4]) *Not less than one hour per week, or the equivalent, shall be devoted to the study of this subject matter in the seventh and eighth grades or their equivalent and in all high school grades. No student shall receive a certificate of graduation from the eighth grade or from high school without passing an examination on these subjects. No student shall be graduated from the eighth grade unless he or she has received instruction in the history of the United States and has given evidence of a comprehensive knowledge of the subject*. (Section 27-21 of the School Code [105 ILCS 5/27-21])

3) The school shall provide health education as required by the Critical Health Problems and Comprehensive Health Education Act [105 ILCS 110].

c) Personnel Requirements

1) Each school's recognition shall be contingent upon evidence of compliance with the requirements of subsection (c-5) of Section 2-3.25o of the School Code.

2) Each school shall require of each new employee evidence of freedom from communicable disease, including tuberculosis. This evidence shall consist of a tuberculin skin test and, if appropriate, an x-ray, performed by a physician licensed in Illinois or any other state to practice medicine in all its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the nurse to perform health examinations, or a physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, not more than 90 days preceding the date on which the report of the test results is presented to the school's chief administrator.

3) Each school's personnel policies shall require:

A) monitoring the performance of each employee who provides or assists with instruction or has other instructional responsibilities (e.g., teachers, teacher aides, administrators, department chairs); and

B) ~~and~~ formal evaluation at least every two years in terms of proficiency and competency.

4) Students' needs for support services such as counseling and social work shall be evaluated when school staff believe consideration is needed, such as when there are changes in the student body or stresses within the surrounding community, and the school's staffing configuration shall reflect decision-making about how those needs should be addressed.

5) Each individual first assigned to a full-time teaching or administrative position at or after the beginning of the 2011-12 school year shall hold a bachelor's or higher degree.

6) Each individual first assigned to a full-time teaching or administrative position prior to the beginning of the 2011-12 school year who does not hold a bachelor's or higher degree shall participate annually in professional development that is demonstrably designed to strengthen his or her knowledge and skills in areas directly related to job duties (e.g., content-area knowledge or pedagogy for teaching staff, and administration, supervision, evaluation, or school management for administrators).

7) Each individual employed in a field requiring licensure shall hold and practice within the scope of the relevant license.

d) Health and Safety
Each school's recognition shall be contingent upon evidence of compliance with the health and safety requirements that are made applicable to nonpublic schools by the following relevant statutes.

1) The physical facilities occupied by the school shall comply with the applicable local building code and fire safety requirements.

2) If the school provides food service, the nutrition program and the facilities used shall comply with the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.), the Child Nutrition Act of 1966 (42 USC 1771 et seq.), and the School Breakfast and Lunch Program Act [105 ILCS 125].

3) The school shall have a wellness policy on file that complies with the requirements of the Child Nutrition and WIC Reauthorization Act of 2004 (section 204 of Public Law 108-265; 42 USC 1751 note).

4) The school shall require evidence that, and shall furnish to the State Superintendent of Education the required reports regarding the extent to which, students have complied with the requirements of Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 665 with respect to health examinations, immunizations, eye examinations, and dental examinations; and shall cooperate in the implementation of the Child Vision and Hearing Test Act [410 ILCS 205] and the rules of the Illinois Department of Public Health at 77 Ill. Adm. Code 675 and 685 regarding hearing and vision screenings, respectively.

5) The school shall comply with the requirements of the School Safety Drill Act [105 ILCS 128].

6) The school shall comply with the requirements of the Eye Protection in School Act [105 ILCS 115].

7) The school shall comply with the requirements of the Toxic Art Supplies in Schools Act [105 ILCS 135].

8) The school shall comply with the applicable requirements of the Asbestos Abatement Act [105 ILCS 105].

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 425.40 Process for Initial Recognition

A nonpublic school may choose whether to seek recognition under subsection (a) or subsection (b) of this Section. An application for initial recognition may be submitted at any time.

a) Direct Recognition

1) The chief administrator of a registered nonpublic school shall submit an application for recognition, using a format specified by the State Superintendent of Education. The application shall include summary information about the school, including but not limited to its educational program and its intended calendar for the upcoming school year, as well as a report of the most recent fire inspection conducted by or on behalf of the relevant local authority.

A) For each school whose geographic location falls within the jurisdiction of a code authority, a copy of a certificate of occupancy issued by that authority and valid for the upcoming school year shall be included with the application.

B) For each school not located within the jurisdiction of any code authority, the application shall include a letter provided by a design professional, indicating that that individual has evaluated the facility and found no condition that would constitute a threat to the health and safety of the occupants and no condition that would constitute an obvious violation of the building code incorporated at 23 Ill. Adm. Code 180.60.

C) For each school whose most recent fire inspection report is more than one year old, the application shall include a letter provided by either a design professional or an individual who meets the requirements of the rules of the Office of the State Fire Marshal at 41 Ill. Adm. Code 111.30 (General Requirements for a Qualified Fire Official), indicating that that individual has evaluated the facility and found no condition that would constitute a fire hazard.

D) A "design professional" is an architect licensed to practice in Illinois under the Illinois Architecture Practice Act of 1989 [225 ILCS 305] and the administrative rules of the Department of Financial and Professional Regulation implementing that Act (68 Ill. Adm. Code 1150), an engineer licensed to practice in Illinois

under the Illinois Professional Engineering Practice Act of 1989 [225 ILCS 325] and the applicable administrative rules of the Department of Financial and Professional Regulation (68 Ill. Adm. Code 1380) or an engineer licensed to practice in Illinois under the Structural Engineering Practice Act of 1989 [225 ILCS 340] and the applicable rules of the Department of Financial and Professional Regulation (68 Ill. Adm. Code 1480).

2) Upon receipt of a complete application, the State Superintendent shall schedule a recognition visit and empanel a review team, whose members shall include at least a representative of the State Superintendent, a representative of a public educational entity such as a school district or regional office of education, and either a representative of a nonpublic school, other than the school whose recognition is being considered, or another individual who is familiar with the nonpublic educational milieu. The team shall visit the school to verify its compliance with the requirements of this Part. The chief administrator shall be notified in advance of the visit regarding the documentation that must be presented relative to each requirement of Section 425.30 of this Part.

3) The team shall observe the operations of the school, review the required documentation, and prepare a report of its findings, including a recommendation regarding recognition of the school, for the consideration of the State Superintendent.

4) Upon consideration of the evidence presented and the recommendations of the review team and relevant staff members, the State Superintendent shall recognize the school if it meets the requirements of Section 425.30 of this Part. If recognition is not granted, the State Superintendent's notice to the chief administrative officer shall identify the deficiencies leading to that determination and Section 425.70 of this Part shall apply.

b) Recognition via External Accrediting Organizations

1) The State Superintendent of Education shall review the processes used by various accrediting organizations to identify those entities whose approval, recognition, or accreditation of schools is granted on the basis of compliance with at least the requirements of Section 425.30 of this Part. A nonpublic school shall receive State recognition upon presentation of

evidence that it has received approval, recognition, or accreditation from any of these entities. Probationary recognition shall be assigned if the accrediting body has assigned a comparable status to the school.

2) The State Superintendent shall maintain on the agency's web site a list of all entities whose determinations are accepted pursuant to subsection (b)(1) of this Section.

c) Each school that is recognized shall receive a Certificate of Nonpublic School Recognition reflecting that status.

d) Recognition shall be valid until the school's recognition status is determine in the following school year~~for one school year~~ and shall be subject to renewal as provided in Section 425.50 of this Part.

e) Recognition that is granted pursuant to this Part shall not be extended to any additional campus, site, or school, nor shall it affect students who are not in attendance at the site to which recognition was specifically granted.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 425.50 Renewal of Recognition

a) Cycle for On-Site Review

1) Each school recognized pursuant to Section 425.40(a) of this Part and seeking continued recognition shall receive periodic visits by a review team~~visited by a review team in preparation for every seventh year for which continued recognition is sought~~. On those occasions, the team shall observe the school's operations, confirm compliance with applicable requirements and prepare a report as provided in Section 425.40 of this Part. When the school's application for renewal of its recognition is received, the State Superintendent shall consider the evidence presented and proceed as discussed in subsection (c) of this Section.

2) Each school recognized pursuant to Section 425.40(b) of this Part shall be visited in keeping with the review cycle of the relevant accrediting organization. When the school's application for renewal of its recognition is received, the State Superintendent shall:

A) renew the school's recognition, if the accrediting organization has renewed the school's accreditation; or

B) assign another status as provided in subsection (c) of this Section, if the accrediting organization has not renewed the school's accreditation.

b) Renewal in Intervening Years

1) For each school year between on-site reviews, the chief administrator of a school recognized pursuant to Section 425.40(a) of this Part shall apply for renewal of the school's recognition by submitting, in an electronic format specified by the State Superintendent of Education, assurances that the school continues to comply with the requirements of this Part and that no significant changes have been made in its operations, its facilities, or its programs. If annual professional development is required for any staff member pursuant to Section 425.30(c)(6) of this Part, the school's chief administrator shall also submit a written plan for ensuring that the affected individuals complete relevant activities.

2) For each school year between on-site reviews, the chief administrator of a school recognized pursuant to Section 425.40(b) of this Part shall apply for renewal of the school's recognition by submitting evidence that the school's accreditation from the relevant organization is in effect for that school year.

c) Upon consideration of the application materials and the report, and recommendation of the review team if a visit was conducted, the State Superintendent shall assign a recognition status to the school.

1) A school shall be fully recognized if it meets the requirements of this Part, including each school whose accreditation by the relevant organization is in effect until the school's recognition status is determined in the following school year~~for the school year in question~~.

2) A school shall be recognized pending further review if it exhibits areas of noncompliance that:

A) are not serious enough to warrant probation as delineated in subsection (c)(3) of this Section; and

B) can be corrected prior to the end of the school year following the school year in which they are identified.

3) A school shall be placed on probation if it:

A) exhibits deficiencies that present a health hazard or a danger to students or staff;

B) fails to offer required coursework;

C) employs personnel who lack the required qualifications;

D) fails or refuses to serve students according to relevant legal requirements; and/or

E) prolongs or repeats instances of noncompliance to a degree that indicates an intention not to comply with relevant requirements.

d) When a school is recognized pending further review, the chief administrator may, within 30 days after receipt of notification to this effect, request a conference at which representatives of the school will have an opportunity to discuss compliance issues with representatives of the State Board of Education.

e) When a school is placed on probation, the State Superintendent shall schedule a conference at which representatives of the school will discuss compliance issues with representatives of the State Board of Education, unless the chief administrator has appealed the school's status as provided in Section 425.70 of this Part. Within 60 days following a conference under this subsection (e), the school's chief administrator shall submit to the State Superintendent a plan for corrective action that conforms to the requirements of subsection (f) of this Section.

f) The State Superintendent of Education shall respond to the submission of a plan within 15 days after receiving it. The State Superintendent shall approve a plan if it:

1) specifies steps to be taken that are directly related to the areas of noncompliance cited;

2) provides evidence that the school has the resources and the ability to take the steps described without giving rise to other issues of compliance that would lead to probationary status; and

3) specifies a timeline for correction of the cited deficiencies that is demonstrably linked to the factors leading to noncompliance and is no longer than needed to correct the identified problems.

g) If a school's plan is not approvable under subsection (f) of this Section, the State Superintendent shall notify the chief administrator to this effect. If no plan is submitted, or if no approvable plan is received within 60 days after the conference with representatives of the State Board, the school's recognition shall be withdrawn, subject to appeal under Section 425.70 of this Part.

h) If, at any time while a plan for corrective action is in effect, the State Superintendent determines that the agreed-upon actions are not being implemented in accordance with the plan or the underlying areas of noncompliance are not being remedied, the State Superintendent shall withdraw the school's recognition, subject to appeal under Section 425.70 of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Roadside Memorials

2) Code Citation: 92 Ill. Adm. Code 549

3)

Section Numbers:	Proposed Action:
549.100	Amend
549.300	Amend

4) Statutory Authority: Implementing and authorized by the Roadside Memorial Act [605 ILCS 125, as amended by PA 97-304, effective August 11, 2011]

5) A Complete Description of the Subjects and Issues Involved: By this proposed rulemaking, the Department is amending this Part for consistency with PA 97-304, effective August 11, 2011. The Public Act amends the Roadside Memorial Act by providing that the fatal accident memorial marker program is repealed on December 31, 2012, instead of December 31, 2011.

Additionally, the Department is adding language at Section 549.100(a) to clarify that this Part only applies to roads and streets under the jurisdiction of the Department. The Roadside Memorial Act requires each supporting jurisdiction to develop its own program and requirements.

Finally, the Department is amending Section 549.300(f) to remove the specific repeal date of the fatal accident memorial markers program from the Part in the event that the legislature should, once again, extend the repeal date or eliminate it in the future.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

DEPARTMENT OF TRANSPORTATION

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11) Statement of Statewide Policy Objectives: The law allows, but does not require, local agencies to have similar programs on streets and highways under their respective jurisdictions.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

Mr. Justan Mann, Acting Engineer of Operations
Illinois Department of Transportation
Division of Highways
2300 South Dirksen Parkway, Room 009
Springfield, Illinois 62764

217/782-7231

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

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: This rulemaking will have no effect on small businesses.

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

C) Types of professional skills necessary for compliance: None

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14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Department could not anticipate the date the bill would be signed into law.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

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

PART 549
ROADSIDE MEMORIALS

Section
549.100 Introduction
549.200 Definitions
549.300 Criteria for DUI Memorial Markers, Fatal Accident Memorial Markers, and Commemorative Plaques
549.400 Design of DUI Memorial Markers, Fatal Accident Memorial Markers, and Commemorative Plaques
549.500 Application, Fees and Other Regulations
549.APPENDIX A District Offices and Counties (Repealed)

AUTHORITY: Implementing, and authorized by Section 25 of, the Roadside Memorial Act [605 ILCS 125] and Sections 27.5 and 27.6 of the Clerk of Courts Act [705 ILCS 105/27.5 and 27.6] and Section 5-9-1.17 of the Unified Code of Corrections [730 ILCS 5/5-9-1.17].

SOURCE: Adopted at 32 Ill. Reg. 8047, effective May 8, 2008; amended at 33 Ill. Reg. 15885, effective October 30, 2009; amended at 34 Ill. Reg. 7330, effective May 4, 2010; amended at 35 Ill. Reg. 1081, effective December 29, 2010; amended at 35 Ill. Reg. _____, effective _____.

Section 549.100 Introduction

a) This Part has been developed in accordance with the Roadside Memorial Act [605 ILCS 125] to regulate the use, by the Illinois Department of Transportation, of DUI memorial markers, fatal accident memorial markers and associated commemorative plaques along streets and highways under the jurisdiction of the Department. This Part establishes standards and financial responsibility for a program of placing markers and plaques at locations under the jurisdiction of the Department~~within the respective jurisdictional areas~~. The DUI memorial marker program became effective on January 1, 2008. The fatal accident memorial marker program became~~will become~~ effective on January 1, 2011.

b) This program does not apply to freeways within the State of Illinois that are under the jurisdiction of the Department.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 549.300 Criteria for DUI Memorial Markers, Fatal Accident Memorial Markers, and Commemorative Plaques

a) Only a qualified relative of a deceased victim may request a DUI or fatal accident memorial marker of the Department. (See Section 15(a) of the Act.)

b) The Department shall deny the request if any qualified relative of any decedent involved in the crash objects in writing to the placement of the DUI or fatal accident memorial marker. (See Section 15(c) of the Act.)

c) The Department shall deny the request or, if a DUI or fatal accident memorial marker has already been installed, may remove the marker, if the qualified relative requesting the memorial marker has provided false or misleading information in the application. (See Section 15(d) of the Act)

d) *The qualified relative shall agree not to place or encourage the placement of flowers, pictures or other items at the crash site*. (Section 15(e) of the Act)

e) The Department shall not erect a DUI or fatal accident memorial marker for a deceased driver involved in a fatal crash who is shown by toxicology reports to have been in violation of state DUI law, unless the qualified relative of any other victim or victims killed in the crash consents in writing to the erection of the memorial. (See Section 15(f) of the Act)

f) When requested and approved, DUI memorial markers and fatal accident memorial markers may be installed for any crash occurring on or after January 1, 1990. ~~When requested and approved, fatal accident memorial markers may be installed for any crash occurring from January 1, 1990 to December 31, 2011.~~ (See Section~~Sections~~ 15(b) ~~and 23(k)~~ of the Act.)

g) DUI or fatal accident memorial markers shall not be installed on freeways except that they may be installed on ramps leading from other highways to freeways.

h) DUI or fatal accident memorial markers shall not be installed within the median of any divided highway.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Chief Procurement Officer for the Department of Transportation – Contract Procurement

2) Code Citation: 44 Ill. Adm. Code 6

3)

Section Numbers:	Adopted Action:
6.10	Amend
6.20	Amend
6.30	Amend
6.40	Amend
6.50	Amend
6.55	New
6.60	Amend
6.70	Amend
6.80	Amend
6.90	Amend
6.100	Amend
6.110	Amend
6.120	Amend
6.125	Amend
6.140	Amend
6.150	Amend
6.180	Amend
6.200	Amend
6.220	Amend
6.240	Amend
6.275	New
6.300	Amend
6.310	Repeal
6.330	Amend
6.360	Amend
6.370	Amend
6.380	Amend
6.385	New
6.388	New
6.420	Amend
6.430	Amend
6.440	Amend

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6.470	Amend
6.480	Amend
6.490	Amend
6.500	Amend
6.510	Amend
6.520	Amend
6.530	Amend
6.540	Amend
6.550	Amend
6.560	Amend
6.570	Amend
6.590	Amend
6.600	Amend
6.610	Amend
6.620	Amend
6.630	Amend
6.640	Amend
6.680	Amend
6.690	Amend
6.740	Amend

4) Statutory Authority: Implementing, and authorized by Section 5-25 of the Illinois Procurement Code [30 ILCS 500]

5) Effective Date of Amendments: September 30, 2011

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 with the CPO and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 8, 2011; 35 Ill. Reg. 10654

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

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11) Differences between proposal and final version: Several grammatical corrections were made in agreement with JCAR. Additionally, the following substantive changes were made to the text in agreement with JCAR:

At Section 6.40, Definitions, a reference to the Code was added to the definition of "PPB".

"Procurement Compliance Monitor" or "PCM" – the person appointed under Section 10-15 of the Code." was added at Section 6.40, Definitions.

At Section 6.120(b)(2), "notice of award and the work begins" was deleted and "contract is awarded" was inserted in its place. A second provision was added: "For purposes of this Section, "contract is awarded" means that the contractor has received notification to proceed, which may be oral, and has started the work."

At Section 6.120(b)(3), "work begins" was deleted and "procurement" was inserted in its place. A second provision was added: "For purposes of this Section, "procurement" means that the contractor has received notification to proceed, which may be oral, and has started the work."

At Sections 6.140(c) and 6.240(b), ", Authorization to Bid, and Subcontractor Registration" was inserted after "Contractors" and "and Issuance of Plans and Proposals" was stricken.

At Section 6.240(d), text was changed to read as follows:

d) Federal-aid contract awards, or proposals by the Department or CPO to reject all bids, are subject to the concurrence of the Federal Highway Administration Division Administrator for Illinois pursuant to 23 CFR 635.114(a) and (h). 23 CFR 635.114(a) and (h) are incorporated by reference as those sections were in effect as of April 1, 2011. No later amendments or editions are incorporated. Copies of the appropriate material are available from the Chief Procurement Officer, Executive Ethics Commission, Illinois Department of Transportation, 2300 S. Dirksen Parkway, Room 200, Springfield, Illinois 62764 or by calling 217/558-5434.

At Section 6.275(b)(2), "based on engineering estimates" was added to the provision.

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Amendments for Section 6.290 was deleted from the rulemaking.

At Sections 6.300(a) and 6.380, "30-day" was inserted as the timeframe of the PPB notice period.

At Section 6.300(d), text was changed to read as follows:

d) "The CPO or the SPO will execute the contract to demonstrate approval of the procurement process." All other language in this subsection was deleted."

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

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

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

Section Numbers:	Proposed Action:	Ill. Reg. Citation:
6.610	Amend	35 Ill. Reg. 16052; October 7, 2011
6.800	New	35 Ill. Reg. 16052; October 7, 2011
6.810	New	35 Ill. Reg. 16052; October 7, 2011
6.820	New	35 Ill. Reg. 16052; October 7, 2011
6.830	New	35 Ill. Reg. 16052; October 7, 2011
6.840	New	35 Ill. Reg. 16052; October 7, 2011
6.850	New	35 Ill. Reg. 16052; October 7, 2011
6.860	New	35 Ill. Reg. 16052; October 7, 2011

15) Summary and Purpose of the Amendments: The Department amended this Part for consistency with recent changes made to the Illinois Procurement Code (Code) (see Public Acts 96-795 and 96-920, effective July 1, 2010) as those changes pertain to the procurement practices of the Department.

Following are summaries of the significant changes made to this Part.

The Department revised Section 6.10, Authority, to establish, pursuant to the Illinois Procurement Code (Code) [30 ILCS 500], that the Illinois Department of Transportation's Chief Procurement Officer (CPO) has authority over all procurements covered under this

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Part. Changes were made throughout the rulemaking consistent with the CPO's authority under this Part.

At Section 6.20, Policy and Application, the Department added language to exclude certain contracts and agreements from the applicability of this Part.

At Section 6.40, Definitions, the Department added and revised definitions for consistency with the Code.

At Section 6.50, Transportation Procurement Bulletin, the Department added language with respect to the timing and content of notices to be posted and published in the Transportation Procurement Bulletin (Bulletin).

At Section 6.55, Required Notices, the Department added a new Section on notices required to be published in the Bulletin.

At Section 6.100, Small Contracts, the Department deleted language in subsection (c) and moved it to newly added Section 6.385.

At Section 6.110, Sole Source Contracts, the Department deleted the provision pertaining to utility, railroad or other private property because they are not sole source contracts; rather, they are covered under cost-reimbursement agreements. The provision on change orders was moved to Section 6.385. Finally, the Department added a provision, consistent with Section 20-25(c), with respect to providing sole source notices to the Procurement Policy Board (PPB) and conducting public hearings prior to the execution of a sole source contract.

At Section 6.120, Emergency Contracts, the Department added provisions with respect to, among other things, the term limit of an initial emergency contract, notice of an emergency contract and extension of an emergency contract.

At Section 6.140, Invitations for Bids, the Department added language with respect to certifications and assurances and mandatory disclosures, which are now included in the Invitation for Bids as bid submission requirements.

At Section 6.150, Amendments to Invitations for Bids, the Department added language prescribing that amendments will be published in the Bulletin and that the bidder is

responsible for ascertaining which addenda or revisions pertain to any project the bidder may be bidding on.

At Section 6.220, Consideration of Bids, the Department added failure to incorporate relevant addenda or revisions as an additional reason for rejection of any individual bids.

At Section 6.240, Award After Bid Evaluation, the Department added a provision with respect to federal-aid contract awards, or proposals by the Department or CPO to reject all bids, requiring concurrence of these by the Federal Highway Administration Division Administrator for Illinois pursuant to 23 CFR 635.114(a) and (h) which are incorporated by reference as of the April 1, 2011 edition of 23 CFR.

At Section 6.275, Notice of Award, the Department added this new Section for consistency with Section 20-10(g) of the Code.

At Section 6.300, Execution of Contract, the Department, among other things, added a provision with respect to the execution of a contract subject to Subpart D of this Part only after the 30-day PPB notice period has expired or the Department has received a waiver of the 30-day PPB notice period from the PPB. Additionally, a provision was added prescribing that the CPO or the SPO will execute the contract to demonstrate approval of the procurement process.

At Section 6.370, Award, the Department clarified that the State Purchasing Officer (SPO) will make the written determination of an awarding of a contract.

At Section 6.380, Execution of Contracts, the Department added language with respect to contracts subject to Subpart E. They will be executed after the 30-day PPB notice period has expired or the Department has received a waiver of the 30-day notice period from the PPB.

The Department added a new Subpart F titled "Contract Administration", and Sections 6.385 and 6.388 are included in this new Subpart.

The Department added a new Section 6.385, Expenditure in Excess of Contract Price. This new Section prescribes requirements that pertain to the obligation of funds in excess of the contract price and construction contract change orders that are germane to the original contract.

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At Section 6.388, Multi-year Contracts, the Department added certification language pursuant to Section 50-2 of the Code.

At Subpart H, the Department added "OR SUBCONTRACTORS" to make subcontractors subject to the same suspension provisions contractors are subject to under this Subpart (which has been renumbered to "J").

At Section 6.520, the Department added debarment as a possible consequence for acts or omissions that indicate that a contractor or subcontractor lacks integrity and honesty in the conduct of business or the performance of contracts.

At Section 6.550, Terms of Suspension, the Department added language concerning the term of a suspension.

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

Mr. Bill Grunloh, Chief Procurement Officer
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 200
Springfield, Illinois 62764

217/ 558-5434

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

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS
CHAPTER III: CHIEF PROCUREMENT OFFICER
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PART 6
CHIEF PROCUREMENT OFFICER FOR
THE DEPARTMENT OF TRANSPORTATION
– CONTRACT PROCUREMENT

SUBPART A: GENERAL

Section
6.10 Authority
6.20 Policy and Application
6.30 Purpose and Policy Interpretations
6.40 Definitions

SUBPART B: PUBLICATION OF PROCUREMENT INFORMATION

Section
6.50 Transportation Procurement Bulletin
6.55 Required Notices
6.60 Subscription Fees
6.70 Direct Solicitation

SUBPART C: METHODS OF PROCUREMENT

Section
6.80 Competitive Sealed Bids
6.90 Competitive Sealed Proposals
6.100 Small Contracts
6.110 Sole Source Contracts
6.120 Emergency Contracts
6.125 Small Business Set-Asides

SUBPART D: COMPETITIVE SEALED BID PROCEDURES

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Section
6.130 General Conditions for Use
6.140 Invitations for Bids
6.150 Amendments to Invitations for Bids
6.160 Preparation of Bids
6.170 Delivery of Bids
6.180 Change or Withdrawal of Bids
6.190 Combination Bids for Construction Contracts
6.200 Pre-Bid Conferences
6.210 Public Opening of Bids
6.220 Consideration of Bids
6.230 Mistakes
6.240 Award After Bid Evaluation
6.250 Split and Multiple Awards
6.260 Time for Award
6.270 Delay in Award
6.275 Notice of Award
6.280 Binding Contract
6.290 Requirement of Contract Bond for Construction Contracts
6.300 Execution of Contract
6.310 Publication of Contracts (Repealed)

SUBPART E: COMPETITIVE SEALED PROPOSAL PROCEDURES

Section
6.320 General Conditions for Use
6.330 Request for Proposals
6.340 Delivery of Proposals
6.350 Evaluation of Proposals
6.360 Discussions with Responsible Offerors
6.370 Award
6.380 Execution~~Publication~~ of Contracts

SUBPART F: CONTRACT ADMINISTRATION

Section
6.385 Expenditure in Excess of Contract Price

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6.388 Multi-year Contracts

SUBPART G~~F~~: PROTESTS

Section
6.390 Application
6.400 Interested Party
6.410 Subject of the Protest
6.420 Filing of a Protest
6.430 Stay of Action during Protest
6.440 Decision

SUBPART ~~G~~H: SPECIFICATIONS

Section
6.450 Standard Specifications
6.460 Contract Documents
6.470 Specification Standards

SUBPART I~~H~~: SUSPENSION OF CONTRACTORS OR SUBCONTRACTORS

Section
6.480 Purpose
6.490 Definitions
6.500 Policy
6.510 General
6.520 Causes for Suspension or Debarment
6.530 Interim Suspension
6.540 Voluntary Exclusion
6.550 Term of Suspension
6.560 Coverage
6.570 Other Agency Suspensions
6.580 Responsibility
6.590 Continuation of Executory Contracts
6.600 Exception Provision
6.610 Notice of Suspension
6.620 Response and Request for Hearing
6.630 Hearing Date and Hearing Officer

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6.640 Answer
6.650 Form of Documents
6.660 Computation of Time
6.670 Appearances
6.680 Hearing Procedures
6.690 Determination

SUBPART J~~I~~: MISCELLANEOUS

Section
6.700 Property Rights
6.710 Federal Requirements
6.720 Intergovernmental Agreements
6.730 No Waiver of Sovereign Immunity
6.740 Written Determinations
6.750 Severability

AUTHORITY: Implementing, and authorized by, Section 5-25 of the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 11602, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 21060, effective November 25, 1998; emergency amendment at 29 Ill. Reg. 7832, effective May 12, 2005, for a maximum of 150 days; emergency expired October 8, 2005; amended at 29 Ill. Reg. 18147, effective October 19, 2005; recodified, pursuant to PA 96-795, from Department of Transporation, 44 Ill. Adm. Code 660, to Chief Procurement Officer for Department of Transportation, 44 Ill. Adm. Code 6, at 35 Ill. Reg. 10158; amended at 35 Ill. Reg. 16518, effective September 30, 2011.

SUBPART A: GENERAL

Section 6.10 Authority

a) The Chief Procurement Officer (CPO)~~Secretary of Transportation~~ is established in the Illinois Procurement Code (~~the~~ Code) [30 ILCS 500] as the person appointed by the Secretary of Transportation with the consent of the majority of the members of the Executive Ethics Commission~~Chief Procurement Officer~~ for all construction, ~~and~~ all construction-related services, ~~contract procurement, for procurement related to the~~ operation of any facility, and the provision of any

construction or construction-related service or activity committed by law to~~under~~ the jurisdiction of the Illinois Department of Transportation (~~the~~ Department), including the direct or reimbursable expenditure of all federal funds for which the Department is responsible or accountable for the use thereof in accordance with federal law, regulations or procedure~~and for the procurement of contracts necessary to the provision of any service or activity for which the Department is charged by law~~. The CPO~~Secretary~~ has the authority to appoint State Purchasing Officers (SPOs) to carry out the responsibility established in the ~~Illinois Procurement~~ Code. (See Sections~~Section~~ 1-15.15 and 10-10 of the Code.)

b) With respect to construction and construction-related services, the Department is charged by law with the responsibility for the construction, improvement, maintenance and operation of the State Highway System; the rehabilitation, improvement and construction of rail facilities; and the construction, improvement and maintenance of air navigation facilities either on behalf of the State or as agent for units of local government empowered to operate air navigation facilities. In addition, the Department may let contracts for highway construction on highway systems under the jurisdiction of local highway authorities as a condition of the receipt of federal-aid funds or as otherwise provided by law.

c) Procurements undertaken by~~in accordance with the authority of~~ the Department, as a construction agency and purchasing agency, and subject to the Code will be accomplished in accordance with this Part or the standard procurement rules adopted by the Chief Procurement Officer for General Services (CPO-GS) (see 44 Ill. Adm. Code 1)~~Department of Central Management Services~~ as indicated in the notice of the relevant procurement. All other procurements subject to the Code and committed to the authority of other Chief Procurement Officers ~~therein~~ will be conducted in accordance with the rules adopted by those Chief Procurement Officers. Procurements subject to the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535] will be conducted, in all aspects and procedures, including but not limited to prequalification, publication, evaluation, selection, contract formation and amendment, and performance evaluation, in accordance with the Department's rules promulgated at 44 Ill. Adm. Code 625~~rules adopted by the Department pursuant to that Act~~.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

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Section 6.20 Policy and Application

a) Policy
All Department contract procurements will be accomplished in the most economic and expeditious manner consistent with the principles and practices established in the Code. It is the policy of the CPO~~Secretary of Transportation, as Chief Procurement Officer~~ for the Department~~,~~ that all activities of the appointed SPOs~~State Purchasing Officers~~ and other designees related to the procurement process maximize the value of the expenditure of public funds in procuring contracts, and that those appointed and designated act in a manner that maintains public trust in the integrity of the process.

b) Application
This Part does not apply to intergovernmental agreements and contracts, grants, purchase of care agreements, collective bargaining agreements, purchase of real estate, contracts necessary to prepare for anticipated litigation, enforcement actions or investigations, and utility and railroad cost reimbursement agreements. (See Section 1-10(b) of the Code.)

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.30 Purpose and Policy Interpretations

This Part is promulgated to guide the CPO and appointed SPOs~~Department~~ in implementing the procurement practices applicable to contract procurement established in the Code. All policy and operational interpretations will be made in a manner so as to secure the commercial needs of the State, to protect, safeguard and maintain the integrity of the procurement process, and to maximize the value of the expenditure of public funds. This Part is intended and designed to achieve practical, standard procedural uniformity for procurement undertaken by the CPO and appointed SPOs for the Department.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.40 Definitions

As used throughout this Part, terms defined in the Illinois Procurement Code have the same meaning as in the Code and as further defined in this Section~~below~~. Each term listed in this Section has the meaning set forth as follows~~below~~ unless its use clearly requires a different

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meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" – An offer made by a bidder in response to a contract item advertised in an Invitation for Bids.

"Bidder" – Any person or entity that in fact submits a bid.

"Change Order" – A formal, written directive issued to a contractor or an agreement that amends a contract in order to address contingencies affecting the performance and completion of the contract, including but not limited to such matters as extra work, design changes~~increases or decreases in quantities, additions~~ or alterations to plans, or special provisions or specifications for which no provision is included~~, and adjustments or alterations specifically provided for~~ in the original contract.

"Chief Procurement Officer" or "CPO" − The person appointed under Section 1-15.15(2) of the Code.

"Code" – The Illinois Procurement Code [30 ILCS 500].

"Construction Agency" – The Illinois Department of Transportation for construction or maintenance of roads, highways, bridges and airports as an agency that enters into construction contracts as authorized by law or by delegation from the CPO. (See Section 1-15.25 of the Code.)

"Contract" – In addition to the definition of contract set forth in Section 1-15.30 of the Code, a contract is the~~A~~ written agreement entered into at the discretion of the SPO between the Department and the contractor comprising such documents as set forth in each individual agreement, including change orders, contract adjustments, and renewals, and setting forth the obligations of the parties for the performance of the contract.

"Contract Adjustment" – A written price adjustment that adds to or deducts from a contract in accordance with provisions included in the original contract, including but not limited to increases or decreases in quantities, incentives, changed conditions and the addition of missing pay items called for in the specifications.

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"Contractor" means any person, firm, corporation, organization, partnership or association, however organized, and its affiliates, including its owners, directors, officers, partners, managers, key employees and others engaged in primary managerial or supervisory positions.

"Day" – A calendar day.

"Department" – The Illinois Department of Transportation.

"Emergency Affidavit" – The affidavit filed by the CPO with the Procurement Policy Board and the Auditor General setting forth the actual or estimated amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. (See Section 20-30(c) of the Code.)

"Emergency Contract" – The initial written agreement for an emergency procurement.

"Germane" – In relationship to the modification, alteration or amendment of the terms of a contract by change order, the term "germane" means a change that is related to the original terms of the contract but that is not so substantial a departure from the original as to constitute a new contract.

"Multi-year Contract" – A multi-year contract is a contract with a time of performance of more than 12 months.

"Offerors" – For purposes of this Part, the term "offerors" includes only persons or entities submitting proposals that are acceptable or potentially acceptable. The term does not include persons or entities who submitted unacceptable proposals.

"PPB" – The Procurement Policy Board created by Section 5-5 of the Code.

"Procurement Compliance Monitor" or "PCM" – the person appointed under Section 10-15 of the Code.

"Proposal" – A response to a Request for Proposals.

"Purchasing Agency" – A State agency that enters into a contract at the direction

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of a State purchasing officer or a chief procurement officer. (See Section 1-15.70 of the Code.)

"Renewal" – An agreement between the parties to a contract to authorize an additional contract period under the terms and conditions of the renewal provision in the original contract.

"Responsible" – The capability, integrity and reliability of a bidder, offeror or contractor that, in all respects, ~~that~~ will assure good faith performance~~,~~ to undertake and complete fully the requirements of a contract.

"Responsive" – In the context of bidding procedures, the compliance in all meaningful, material respects with the Invitation for Bids.

"Special Provisions" – Additions and revisions to the Standard and Supplemental Specifications applicable to an individual contract.

"Specifications" – The body of directions, provisions, and requirements for performance of prescribed work. Specifications includes and may be referred to as the Standard Specifications, which is a Department publication of specifications approved for general application and repetitive use.

"State Purchasing Officer" or "SPO" – The person appointed under Section 10-10 of the Code.

"Subcontract" – A contractual agreement between a person or entity and a person or entity who has a contract subject to the Code and this Part, pursuant to which the subcontractor assumes obligation for performing specified work. (See Section 1-15.107 of the Code.)

"Subcontractor" – A person or entity that enters into a contractual agreement with a total value of $25,000 or more with a contractor who has a contract subject to the Code. (See Section 1-15.108 of the Code.)

"Supplemental Specifications" – Additions and revisions to the Department's Standard Specifications.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

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NOTICE OF ADOPTED AMENDMENTS

SUBPART B: PUBLICATION OF PROCUREMENT INFORMATION

Section 6.50 Transportation Procurement Bulletin

a) The Department is responsible under the Code for publication of its volume of the Illinois Procurement Bulletin. The Department volume is entitled the "Transportation Procurement Bulletin" (Bulletin). (See Section 15-1 of the Code.)

b) The ~~Transportation~~ Bulletin is the published source for all Department procurement actions, notices and other information relevant to Department procurement activities undertaken pursuant to this Part, including but not limited to contracts offered in the Invitation for Bids, contracts awarded, change orders, emergency purchases and sole source procurements.

c) The ~~Transportation~~ Bulletin may be published in subparts designed to enhance and focus the ability of users to find information relevant to the user's interest.

d) The ~~Transportation~~ Bulletin or any subpart thereof will be published or updated at least once each month but may be updated more frequently. (See Section 15-15 of the Code.)

e) Notices of all awarded contracts, including renegotiated contracts and change orders, will be posted on the Department's website the next business day. Notice will be posted and published in the Bulletin and will include the following:

1) the name of the successful responsible bidder or offeror;

2) the contract price;

3) the number of unsuccessful responsive bidders; and

4) any other disclosures, such as emergency purchase disclosures or any disclosure required under the Code.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

CHIEF PROCUREMENT OFFICER
FOR THE DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 6.55 Required Notices

a) The Department is responsible for publishing its volumes of the Bulletin pursuant to this Subpart B.

b) Notice of all awarded contracts entered into by the Department pursuant to Subpart D will be published in the Bulletin.

c) Notice of Invitations for Bids are published in the Bulletin pursuant to Subpart D.

d) Notice of contracts let are published in the Bulletin pursuant to Subpart D.

e) Notice of contract renewals and change orders are published in the Bulletin pursuant to Subpart F.

f) The CPO or SPO will provide notice of emergency contracts and any hearings to extend any emergency contract in the Bulletin pursuant to Subpart C.

g) The CPO will provide a written description of the intent to enter into a sole source contract, along with a description of the item to be procured and the intended sole source contractor, in the Bulletin prior to entering into the sole source contract. The notice will be posted at least 14 days prior to the sole source hearing pursuant to Subpart C.

(Source: Added at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.60 Subscription Fees

The Department reserves the right to charge subscription fees in accordance with Section 15-15 of the Code. The ~~Transportation~~ Bulletin will be made available without charge to prequalified bidders, registered subcontractors, and offerors, and to public libraries within Illinois expressing interest. Access to detailed information contained in the ~~Transportation~~ Bulletin or any subpart may require additional fees.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.70 Direct Solicitation

CHIEF PROCUREMENT OFFICER
FOR THE DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Publication of the ~~Transportation~~ Bulletin or any subpart will~~shall~~ not prohibit direct solicitation in addition to publication in order to enhance competition or interest of prospective contractors in particular procurements.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

SUBPART C: METHODS OF PROCUREMENT

Section 6.80 Competitive Sealed Bids

Except for those circumstances and methods described in Sections 6.90, 6.100, 6.110 and 6.120~~660.90, 660.100, 660.110 and 660.120~~, all Department contracts will be procured by competitive sealed bidding in accordance with Section 20-10 of the Code and this Part. (See Section 20-5 of the Code.)

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.90 Competitive Sealed Proposals

a) Department contracts may be procured by competitive sealed proposals when the Department determines that competitive sealed bidding is either not practicable or not advantageous to the State. (See Section 20-15(a) of the Code.)

b) The determination to use competitive sealed proposals will be made in writing on either a contract-by-contract or a category of contracts basis.

1) "Practicable" Distinguished From "Advantageous." As used in this Subpart, the term "practicable" means that which may be accomplished or put into practical application, and "advantageous" means an assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest. Before a contract may be entered into by competitive sealed proposals, the Department will determine in writing that competitive sealed bidding is either not practicable or not advantageous to the State.

2) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals may be used. The competitive sealed

proposal method differs from competitive sealed bidding in two principal ways. First, it permits discussions with competing offerors and changes in their proposals, including price. Second, it allows comparative evaluations to be made when selecting among acceptable proposals for award of the contract. Where evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, where the types of supplies or services may require the use of comparative evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing values other than price alone, or where prior procurement experience indicates that competitive sealed proposals may result in more beneficial contracts for the State, use of competitive sealed proposals is the appropriate procurement method.

c) Contracts for professional and artistic services governed by the Competitive Selection Procedures (44 Ill. Adm. Code 2035) adopted by the CPO-GS~~Illinois Department of Central Management Services~~ are subject to those procedures for procurement.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.100 Small Contracts

a) Individual contracts for supplies or services from any one source that do not exceed $10,000 may be made without notice, competition or use of any other method of procurement prescribed in the Code or this Part. (See Section 20-20(a) of the Code.) Contracts for professional and artistic services that do not exceed $20,000 for a nonrenewable term of not more than one year will be procured in accordance with this Section.

b) Construction contracts, construction supply contracts, construction-related service contracts and change orders made thereto that do not exceed $30,000 may be procured without notice, competition or use of any other method of procurement prescribed in the Code or this Part. (See Section 20-20 of the Code.)

~~c) Section 30-35 of the Code provides that a construction contract change order may cause the obligation or expenditure of funds in excess of the original contract price provided that the subject of the change order is germane to the original contract. Section 30-35 of the Code further establishes the manner in which the~~

~~amount of additional expenditure or obligation will be determined and authorized by the Department. The Department will approve construction contract change orders authorizing the obligation or expenditure of additional funds without supplemental procurement procedures, in accordance with the following requirements and thresholds.~~

~~1) A construction contract change order that is germane and that causes the obligation or expenditure in excess of the amounts in Section 30-35(b) of the Code or of more than $30,000 in excess of the contract price, whichever is less, will not be authorized without supplemental procurement procedures unless the scope of the change order is approved as provided in Section 30-35 of the Code.~~

~~2) Determination of germaneness and the amount of additional expenditure or obligation thresholds will be determined in accordance with this Part and Section 30-35 of the Code.~~

~~3) Prior written approval or disapproval will be made by the Department in accordance with the threshold amounts established in Section 30-35 of the Code, and in all cases if the contemplated construction contract change order will cause an expenditure or obligation of funds of more than $30,000 in excess of the contract price even though the threshold levels provided in Section 30-35 of the Code do not require such action. The written approval will state the reasons for the additional obligation or expenditure and the basis for the germaneness determination.~~

~~4) For purposes of determining the scope of the change order and the value thereof that is subject to the requirements of this Section, the Department will consider the total net value of all added and deducted work functions related to the object of the change order and the work of the contract to be affected.~~

~~5) Notice of approved construction contract change orders in excess of $30,000 will be published in the Transportation Bulletin.~~

c~~d~~) Estimated needs shall not be divided in any manner to avoid the use of an established method of procurement. (See Section 20-20(a) of the Code.)

CHIEF PROCUREMENT OFFICER
FOR THE DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.110 Sole Source Contracts

a) A contract may be procured from a single source ~~contractor~~ without competition or use of any other method of procurement prescribed in the Code or this Part when the single source ~~contractor~~ is the only economically feasible source capable of providing the services, including professional and artistic services, contemplated or the material or product to be supplied. (See Section 20-25 of the Code.)

b) A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. Examples of circumstances that could necessitate sole source procurement include but are not limited to:

1) when the compatibility of equipment, accessories, replacement parts, or service is a primary consideration;

2) when trial use, testing or the development of new technology is the object of the procurement;

3) when a sole supplier's item is to be procured for commercial resale;

4) when utility services are to be procured;

5) when the surety providing a performance bond tenders a completion contractor, acceptable to the Department, to complete a defaulted contract;

6) when the item is copyrighted or patented and the item is not available except from the holder of the copyright or patent or service area licensee.~~; and~~

~~7) when utility, railroad or other private property is to be relocated or otherwise adjusted by the owner to accommodate a Department project.~~

~~c) Change Orders to existing contracts germane to the original contract that are necessary or desirable to complete the project, and that can be best accomplished~~

~~by the contract holder, may be procured under this Section.~~

c~~d~~) The CPO will provide~~Department shall~~ ~~publish~~ notice of intent to contract on a sole source basis to the PPB and publish the notice in the ~~Transportation~~ Bulletin at least 14 days prior to the public hearing required in Section 20-25(a) of the Code~~execution of the contract~~. The notice will include the sole source procurement justification form prescribed by the PPB, a description of the item to be procured, the intended sole source contractor, and the date, time and location of the public hearing. (See Section 20-25 of the Code.)

d) The CPO will hold a public hearing in accordance with Section 20-25(a) of the Code.

1) Prior to the execution of a sole source contract, the CPO will hold a public hearing and provide written justification for the sole source contract. The Department will also provide written justification for the sole source contract.

2) The PPB and members of the public may present testimony at the public hearing.

3) A copy of all procurement documents provided at the hearing will be included in the subsequent Bulletin, along with the decision of the CPO to award or not award the sole source contract.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.120 Emergency Contracts

a) A contract may be procured without the use of any other method of procurement prescribed in the Code or this Part when there exists a threat to public health or safety, or when an immediate contract is needed to repair State property in order to prevent or minimize further loss or damage to State property, or to prevent or minimize serious disruption in critical State services that affect health, safety or collection of substantial State revenues, including but not limited to completion of a defaulted contract, or to ensure the integrity of State records. (See Section 20-30(a) of the Code.)

CHIEF PROCUREMENT OFFICER
FOR THE DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

b) The term of an initial emergency contract will not exceed 90 days as the time reasonably needed for a competitive procurement. For the initial emergency contract:

1) The emergency contract will provide a written description of the basis for the emergency and reasons for the selection of the particular contractor to be included in the contract file. (See Sections 20-30(a) and (c) of the Code.)

2) Notice of the emergency contract will be provided to the PPB and published in the Bulletin no later than 3 business days after the contact is awarded. For purposes of this Section, "contract is awarded" means that the contractor has received notification to proceed, which may be oral, and has started the work.

3) Within 10 days after the procurement, the emergency affidavit will also be posted to the Bulletin and filed with both the PPB and the Auditor General. (See Section 20-30(c) of the Code.) For purposes of this Section, "procurement" means that the contractor has received notification to proceed, which may be oral, and has started the work.

c) An emergency contract may be extended beyond 90 days if the CPO determines additional time is necessary and that the contract scope and duration are limited to the emergency. The CPO will hold a public hearing in accordance with Section 20-30(a) of the Code.

1) Prior to the execution of an extension past 90 days, the CPO will hold a public hearing and provide written justification for the emergency contract. The Department may also provide written justification for the emergency contract.

2) Notice of the hearing will be posted at least 14 days prior to the emergency contract extension hearing date and prior to the expiration of the 90 day term of the initial emergency contract. The notice will include a description of the need for the emergency contract extension, the contractor, and the date, time and location of the public hearing.

3) The PPB and members of the public may present testimony at the public

hearing.

4) A copy of the notice and documents provided at the hearing will be included in the subsequent Bulletin, along with the decision of the CPO to extend or not extend the emergency contract.

d~~b~~) For purposes of this Section, State property includes all property both real and personal. State records include~~includes~~ all records regardless of the form of storage. State services include, but are not limited to, all activities committed by law to the jurisdiction or responsibility of the Department, whether provided directly or indirectly by means of contract or intergovernmental agreement. ~~Change Orders to existing contracts that are necessary to complete the contract, and that can best be accomplished by the contract holder, may be procured under this Section.~~

e~~c~~) The Department will employ such competition as is practicable under the emergency circumstances to abate the emergency situation, including the use of existing contracts.

f) Emergency contracts are exempt from the requirements of Section 20-80(d) of the Code as long as notice is filed with the PPB and published in the Bulletin, as required.

~~d) Section 20-30(a) of the Code requires a written description of the basis for the emergency and reasons for the selection of the particular contractor to be included in the contract file. Section 20-30 of the Code further requires an affidavit to be filed with the Auditor General setting forth the amount expended, the name of the contractor and the basis for the emergency. For purposes of Department emergency procurements, the Code required affidavits will serve as the Code required written descriptions retained in the contract file, and for purposes of publication notice as required by the Code.~~

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.125 Small Business Set-Asides

a) The Department may determine categories of construction, supply, and service procurements that will be set aside for small businesses located in Illinois. The

set-aside designation may be made for current and future procurements for a fair proportion of a specific construction, supply, or service, or for a class of like construction, supplies or services. A fair proportion of construction contracts means no less than 25% nor more than 40% of the annual total contracts for construction. A set-aside designation may last indefinitely or for a stated period of time, as determined by the Department. (See Section 45-45(a) and (c) of the Code.)

b) A business that meets the definition of a small business on the day of bid or proposal opening will be considered a small business for the duration of the contract. (See Section 45-45(e)(1) of the Code.)

c) If the Department wishes to make a procurement covered by a small business set-aside designation, the solicitation will note that responses are limited to those from responsible small businesses. Bids or proposals received from businesses other than small businesses will be rejected as nonresponsive. (See Section 45-45(a) of the Code.)

d) If the Department determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Department will reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification will be published in the ~~Transportation~~ Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement will be conducted in accordance with the limitations of the Code and this Part. (See Section 45-45(d) of the Code.)

e) Unless the Department provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

1) Independently owned and operated.

2) Not dominant in its field of operations, which means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration will be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of

materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

3) With annual sales for most recently ended fiscal year no greater than:

A) $10,000,000 for wholesale business;

B) $10,000,000 for construction business; or

C) $6,000,000 for retail business.

4) With no more than 250 employees if a manufacturing business.

A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.

B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.

5) If the business is any combination of retailer, wholesaler or construction business, the annual sales for each component may not exceed the amounts shown in subsection (e)(3) of this Section. For example, a business that is both a retailer and wholesaler may not have total sales exceeding $16,000,000; the retail component may not exceed $6,000,000; and the wholesale component may not exceed $10,000,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection (e)(4) of this Section.

6) When computing the size of a business, the number of employees and annual sales and receipts, as applicable, of the business and all affiliates will be considered. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or, when a third party or parties controls or has the power to control both. In determining

whether concerns are independently owned and operated and whether affiliation exists, consideration will be given to all appropriate factors, including the use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship will not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure. (See Section 45-45(b) of the Code.)

f) Contractors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information verifying that the contractor qualifies as a small business under the Code. The Department may establish procedures for verifying such information.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

SUBPART D: COMPETITIVE SEALED BID PROCEDURES

Section 6.140 Invitations for Bids

a) The process for procuring a contract by competitive sealed bids begins with the issuance of an Invitation for Bids by publication in the ~~Transportation~~ Bulletin not less than 14 days prior to the date set for the opening of bids. (See Section 20-10(c) of the Code.)

b) The Invitation for Bids may include more than one contract item and will include the following minimum requirements.

1) Instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance, certifications and assurances, mandatory disclosures, and any other special information. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.

2) A purchase description for each contract item, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description.

3) The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

4) The Invitation for Bids may provide a form that will specify or organize the manner of price submission and that the bidder shall sign and submit along with all other necessary submissions, including disclosure forms.

c) For procurements of construction, the Invitation for Bids also will include information and instructions for obtaining all contract specifications, special provisions, plans for the construction contract work and bid forms for individual contract items. Bidders for construction contracts are required to have Authorization to Bid issued in accordance with the Department's rules for Prequalification of Contractors, Authorization to Bid, and Subcontractor Registration ~~and Issuance of Plans and Proposals~~ found at 44 Ill. Adm. Code 650.

d) In addition, each construction contract item will include but not be limited to the following minimum information and requirements enforceable in accordance with State or federal law through the terms and conditions of the contract.

1) Information concerning the location, limits and description of the construction work and the scope thereof contemplated by the contract.

2) An estimate of the various quantities of the type of work to be performed and the materials to be furnished in the performance of the contract.

3) The manner of bid price submission for a construction contract may include lump sum, a schedule of unit prices or a combination thereof based upon the estimate of quantities provided in the contract.

4) The manner of making changes in the quantities and such alterations in the work as necessary to satisfactorily complete the contract.

5) Provisions to assure that all work is performed in accordance with the contract requirements including but not limited to the following methods.

A) Limitations on subcontracting;

B) Qualifications and requirements for contractor supervisory personnel;

C) Engineering services to be provided by the contractor;

D) Department provided resident personnel and inspectors;

E) Performance and payment bond requirements;

F) Inspection and acceptance of the work requirements;

G) Restrictions, sources and quality requirements for all materials and testing or inspection procedures;

H) The method of determination and documentation of pay quantities and a record of the materials, supplies and labor furnished in performance of the contract;

I) The manner of determining satisfactory prosecution of the work and progress to completion of the work in accordance with the time for completion set out in the contract including, when incorporated into the contract, provisions for liquidated damages and incentive payments for early completion; and

J) Provisions for the suspension of work and the termination of the contract.

6) All labor, employment and wage requirements applicable to the contract, and the manner of payroll recording, submission and inspection. (See the Prevailing Wage Act, 820 ILCS 130.)

7) All procurement preferences made applicable to the contract. (See Article 45 of the Code.)

8) The manner of measuring the work for payment based upon the estimated quantities provided or upon the actual quantities of material and work measured and completed including but not limited to progress payments as the work proceeds, and final payment.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.150 Amendments to Invitations for Bids

Invitations for Bids may be supplemented, by publication in the ~~Transportation~~ Bulletin, with additional contract items, amended instructions, information, or extensions of any times stated in the invitation. Contract items may be subject to amendment. Amendment to contract items may require that the bidder acknowledge receipt of all amendments issued. Each amendment will reference the contract item it amends. Amendments will be published in the Bulletin~~sent to all prospective bidders known to the Department at the time of the amendment~~. It is the bidder's responsibility to determine which, if any, addenda or revisions pertain to any project the bidder may be bidding on.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.180 Change or Withdrawal of Bids

A bidder may change or withdraw a bid if written or in-person notice of the change or withdrawal is received by the Department before the time specified for submission of bids. No change or withdrawal is allowed after bid opening except as provided in Section 6.230~~660.230~~ of this Part. Changes must be initialed in ink by the bidder. (See Section 20-10(f) of the Code.)

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.200 Pre-Bid Conferences

Pre-bid conferences may be conducted to enhance understanding of the procurement requirements. They will be announced in the ~~Transportation~~ Bulletin. The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Only the written minutes of the conference shall be binding. Nothing stated in the pre-bid conference shall change the Invitation for Bids unless a change is made by written amendment to the Invitation for Bids. Minutes of the conference will be available upon request to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the minutes shall be supplied to attendees only.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

CHIEF PROCUREMENT OFFICER
FOR THE DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 6.220 Consideration of Bids

a) After the bids are opened, read and recorded, the bids will be reviewed for responsiveness to the Invitation for Bids and conformity with all requirements prescribed in this Part. If unit prices are required, the bids will be compared on the basis of the summation of the products of the quantities shown in the bid schedule by the unit bid prices.

b) The right is reserved by the Department to reject any or all bids, to waive minor informalities or technicalities, to advertise for new bids, or to request confirmation or clarification from any bidder regarding information contained in a bid.

c) Reasons for rejection of all bids include but are not limited to:

1) The object of the contract being procured is no longer required.

2) The contract provisions require amendment.

3) The solicitation did not provide for consideration of all factors of significance to the Department.

4) The bid prices exceed available funds or the bid prices exceed the anticipated estimate of costs to the extent that, in the judgment of the Department, prices are unreasonable.

5) Evidence of collusion among bidders.

6) Actions or events beyond the control of the Department, such as strikes, acts of God, material shortages, acts of the public enemy or litigation, would have an adverse effect on the completion of the anticipated contract.

d) Reasons for rejection of any individual bids include but are not limited to:

1) More than one bid for the same contract item from a bidder under the same or different names.

2) Evidence of collusion among bidders.

3) Unbalanced bids in which the bid prices for some items are, in the judgment of the Department, out of proportion to the bid prices for other items.

4) If the bid does not contain a unit price for each pay item listed, except in the case of authorized alternate pay items or lump sum pay items.

5) If the bid form is other than that furnished or authorized by the Department, or if the form is altered or any part thereof is detached.

6) If there are omissions, erasures, alterations, unauthorized additions, conditional or alternate bids, or irregularities of any kind that may tend, in the judgment of the Department, to make the bid incomplete, indefinite, or ambiguous as to its meaning.

7) If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.

8) If the bid is not accompanied by the proper bid bond or substitute guaranty.

9) If the bid is prepared in any manner other than as indicated in this Part or the Invitation for Bids making the bid not responsive.

10) If the bidder failed to incorporate relevant addenda or revisions.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.240 Award After Bid Evaluation

a) Unless all bids are rejected, an award notification will be made to the lowest responsible bidder whose bid is responsive to and conforms with the requirements and criteria of the invitation. Tie bids will be decided by lot. All responsibility, responsiveness, and price factors are considered so as to select the bid most advantageous to the State. An individual contract item advertised in an Invitation

for Bids may state other, additional award and evaluation criteria that will be capable of objective consideration for award. (See Section 20-10(g) of the Code.)

b) Responsibility of bidders for construction contracts is determined in accordance with the Department's rules for Prequalification of Contractors, Authorization to Bid, and Subcontractor Registration ~~and Issuance of Plans and Proposals~~ found at 44 Ill. Adm. Code 650.

c) For nonconstruction contracts, the responsibility of bidders will be determined based upon the following factors unless some other or additional factors or prequalification procedures are stated in the Invitation for Bids.

1) The bidder shall possess the appropriate financial, material, equipment, facility and personnel resources and expertise necessary to meet all contractual obligations.

2) The bidder shall have a satisfactory record of performance, including but not limited to a sound record of integrity and business ethics.

3) The bidder shall be under no legal disability of any kind to contract with the State.

4) The bidder shall have submitted all information requested by the Invitation for Bids concerning responsibility.

d) Federal aid contract awards, or proposals by the Department or CPO to reject all bids, are subject to the concurrence of the Federal Highway Administration Division Administrator for Illinois pursuant to 23 CFR 635.114(a) and (h). 23 CFR 635.114(a) and (h) are incorporated by reference as those sections were in effect as of April 1, 2011. No later amendments or editions are incorporated. Copies of the appropriate material are available from the Chief Procurement Officer, Executive Ethics Commission, Illinois Department of Transportation, 2300 S. Dirksen Parkway, Room 200, Springfield, Illinois 62764 or by calling 217/558-5434.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.275 Notice of Award

a) Notice of the Department's intent to award a contract, with concurrence of the SPO, pursuant to this Subpart D will be published in the Bulletin.

b) When the SPO determines that it is not in the best interest of the State to award to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, the SPO will provide, by written explanation, for the determination that another bidder will receive the award. *The written explanation* will *be filed with the Legislative Audit Commission and the PPB.* It will also be available to the public within 30 days after the decision to award the contract. *The written explanation must include:*

1) *A description of the Department's needs;*

2) *A determination that the anticipated cost will be fair and reasonable* based on engineering estimates;

3) *A listing of all* evaluated *responsible and responsive bidders; and*

4) *The name of the bidder selected, pricing, and the reasons for selecting that bidder.* (Section 20-10(g) of the Code)

(Source: Added at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.300 Execution of Contract

a) No contract subject to this Subpart D will be executed until the 30-day PPB notice period has expired or the Department has received a waiver of the 30-day notice period from the PPB. (See Section 5-30 of the Code.)

b~~a~~) The bid form submitted by the bidders may be in such a form that the signature of the bidder on the form is also the signature of the bidder for purposes of contract execution. In such circumstances, the Department will, after acceptance and approval of the bid for contracting purposes, execute the contract and return a copy to the bidder.

c~~b~~) If the contract as bid requires additional execution by the bidder, the contract shall be executed by the successful bidder and returned, together with any required

contract bond, within 15 days after the contract has been mailed to the bidder. Failure of the successful bidder to execute the contract and file acceptable bonds within 15 days after the contract has been mailed to the bidder is cause for the cancellation of the award and the forfeiture of the proposal guaranty. If the contract is not executed by the Department within 15 days following receipt from the bidder of the properly executed contract and bond, the bidder shall have the right to withdraw the bid without penalty.

d) The CPO or the SPO will execute the contract to demonstrate approval of the procurement process.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.310 Publication of Contracts (Repealed)

~~Notice of contracts entered into by the Department pursuant to this Subpart D will be published in the Transportation Bulletin.~~

(Source: Repealed at 35 Ill. Reg. 16518, effective September 30, 2011)

SUBPART E: COMPETITIVE SEALED PROPOSAL PROCEDURES

Section 6.330 Request for Proposals

a) The process for procuring a contract by competitive sealed proposals begins with the issuance of a Request for Proposals by publication in the ~~Transportation~~ Bulletin not less than 14 days before the date set in the request for the opening of proposals. (See Section 20-15(b) and (c) of the Code.)

b) The Request for Proposals will include the following elements that may be adapted to accomplish the objectives of the Department.

1) A general description of the type of service needed.

2) A general description of the nature of the work and its relationship to the objectives of the Department.

3) The anticipated starting date and duration of the contract.

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4) A general description of the final product to be produced or service to be rendered.

5) A detailed description of the work of the project that also discloses a summary of any preliminary work that has been done, and any special conditions affecting the performance of the work, including but not limited to location, licenses, skills required and materials to be supplied. In addition, a timetable for performing the work, including reporting requirements, may be included or instructions for the offerors to provide an acceptable timetable may be specified.

6) A description of the required format for a proposal, including some or all of, but not limited to, the following elements:

A) Technical Proposal: A document describing in detail how the work will be accomplished, including any services that would be provided through a subcontract.

B) Staffing: A summary of the qualifications of the individuals who would be assigned to the project, a general account of experience in the field of work, and a list of current and anticipated contracts that could require the involvement of the project staff during the term of the Department's contract.

C) Cost Estimate: When the project is federally-funded, a detailed estimate of direct and indirect costs of accomplishing the work. When the project is not federally-funded, the Request for Proposal will indicate when and how price will be submitted.

D) Samples of Previous Work: Copies of reports, manuals, plans, etc., that are closely related to the type of services needed.

E) A statement of any additional requirements.

7) A description of the evaluation factors that will be used to evaluate and rank the proposals, and the relative importance of price to the evaluation factors. (See Section 20-15(e) of the Code.)

8) A name and phone number of the responsible Department office, and the official mailing address, date and time for submission of the proposal and supporting documents.

9) For any federally-funded contract that is expected to exceed $50,000 in cost, a notification that fiscal information may be required prior to an award detailing the offeror's accounting system, payroll burden, fringe expenses, and general and administration overhead expense percentage rating for purposes of a pre-contract audit.

10) A statement, for nonfederally-funded contracts, of when and how price will be submitted.

11) A statement that discussions may be conducted with offerors that submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted and evaluated, and that an award may be made and contract executed without discussions.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.360 Discussions with Responsible Offerors

~~a) "Offerors" Defined. For purposes of this Section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term does not include businesses who submitted unacceptable proposals.~~

a~~b~~) Purposes of Discussions. Discussions may be held to promote understanding of the Department's requirements and the offerors' proposals, and to facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the Request for Proposals. (See Section 20-15(f) of the Code.)

b~~c~~) Conduct of Discussions. Offerors will be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of or change in the Request for Proposals, the Request shall be amended to incorporate such

clarification or change and all offerors advised accordingly. Revealing one offeror's price to another and disclosure of any information derived from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror. (See Section 20-15(f) of the Code.)

c~~d~~) Best and Final Offers. The Department may establish a common date and time for the submission of best and final offers. The Department may conduct additional discussions or change the State's requirements and require another submission of best and final offers. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.370 Award

a) An award will be made pursuant to a written determination by the SPO, retained in the procurement~~contract~~ file, showing the basis on which the award was found to be most advantageous to the State, based on the factors set forth in the Request for Proposals, and taking into consideration price. (See Section 20-15(g) of the Code.)

b) Nothing shall compel the award of a contract. Contract execution will be as specified in the Request for Proposals. A solicitation may be canceled at any time when such action is determined in the sole judgment of the Department to be in the best interest of the State.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.380 Execution~~Publication~~ of Contracts

No contract subject to~~Notice of contracts entered into by the Department pursuant to~~ this Subpart E will be executed until the 30-day PPB notice period has expired or the Department has received a waiver of the notice 30-day period from the PPB~~published in the Transportation Bulletin~~.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

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SUBPART F: CONTRACT ADMINISTRATION

Section 6.385 Expenditure in Excess of Contract Price

a) No funds in excess of the contract price may be obligated or expended by change order or contract adjustment unless the additional work to be performed or materials to be furnished are germane to the original contract.

b) A construction contract change order may cause the obligation or expenditure of funds in excess of the original contract amount provided the subject of the change order is germane to the original contract and the Department determines the additional expenditure is approved in accordance with Section 30-35 of the Code. The Department will approve construction contract change orders without supplemental procurement procedures in accordance with the following requirements and thresholds.

1) A construction contract change order that is germane and that causes the obligation or expenditure in excess of the amounts in Section 30-35(b) of the Code or of more than $30,000 in excess of the contract price, whichever is less, will not be authorized without supplemental procurement procedures unless the scope of the change order is approved as provided in Section 30-35 of the Code.

2) Determination of germaneness and the amount of additional expenditure or obligation thresholds will be determined in accordance with this Part and Section 30-35 of the Code.

3) Prior written approval or disapproval will be made by the Department in accordance with the threshold amounts established in Section 30-35 of the Code, and in all cases if the contemplated construction contract change order will cause an expenditure or obligation of funds of more than $30,000 in excess of the contract price even though the threshold levels provided in Section 30-35 of the Code do not require such action. The written approval will state the reasons for the additional obligation or expenditure and the basis for the germaneness determination.

4) For purposes of determining the scope of the change order and the value thereof that is subject to the requirements of this Section, the Department will consider the total net value of all added and deducted work functions related to the object of the change order and the work of the contract to be affected.

5) Notice of approved construction contract change orders in excess of $30,000 will be published in the Bulletin.

c) A construction contract adjustment is germane to the original contract. If a contract adjustment requires additional obligation or expenditure in excess of $30,000, the Department will record the provisions of the original contract in the contract payment file as authority for the addition.

d) Contract change orders and contract adjustments will be processed on Department Form BC22, Authorization of Contract Change.

(Source: Added at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.388 Multi-year Contracts

Every contractor with a multi-year contract *and every subcontractor with a multi-year subcontract shall certify by July 1 of each fiscal year covered by the contract, after the initial fiscal year*, to the CPO *whether it continues to satisfy the requirements of* Article 50 of the Code. (Section 50-2 of the Code) This obligation may require that the contractor or subcontractor submit a new financial disclosure form.

(Source: Added at 35 Ill. Reg. 16518, effective September 30, 2011)

SUBPART G~~F~~: PROTESTS

Section 6.420 Filing of a Protest

a) All protests shall be in writing and filed with the CPO~~Chief Procurement Officer~~ within 7 calendar days after the protester knows or should have known of the facts giving rise to the protest. Protests filed after the 7 calendar day period will not be considered. In addition, protests that raise issues of fraud, corruption or illegal acts affecting specifications, special provisions, supplemental specifications and

plans must be received by the CPO~~Chief Procurement Officer~~ no later than 14 calendar days before the date set for opening of bids.

b) The protest shall be contained in an envelope clearly labeled "Protest." The written protest shall include as a minimum the following requirements.

1) The name, address, telephone and facsimile numbers of the protester.

2) The identification of the procurement or solicitation that is the subject of the protest.

3) All information establishing that the protester is an interested party.

4) A detailed statement of the factual and legal grounds of the protest, including all relevant documents and exhibits that demonstrate fraud, corruption or illegal acts having the effect of undermining the integrity of the procurement process.

5) All information establishing the timeliness of the protest.

6) The signature of the protester.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.430 Stay of Action during Protest

When a protest has been timely filed and before an award has been made, the SPO~~Department~~ will make no award of the contract until the protest has been resolved, unless the award of the contract without delay is necessary to protect the interests of the State. When a protest has been filed after an award has been made, the protest will be denied.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.440 Decision

a) A decision on a protest will be made as expeditiously as possible after receiving all relevant information.

b) The protest will be sustained only if it is determined by the CPO~~Chief Procurement Officer~~ that the protest conclusively demonstrates by the preponderance of relevant information submitted that fraud, corruption or illegal acts have occurred that undermine the integrity of the procurement process.

c) If the protest is sustained, the remedies available are limited to cancellation or revision of the solicitation, or readvertisement of the solicitation. Relief available does not include award of the contract to the protester.

d) The decision of the CPO~~Chief Procurement Officer~~ is final and conclusive unless clearly erroneous, arbitrary, capricious or contrary to law. (See Section 20-75 of the Code.) A copy of the decision of the CPO~~Chief Procurement Officer~~ will be transmitted to the protester within 14 days after the decision is entered.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

SUBPART H~~G~~: SPECIFICATIONS

Section 6.470 Specification Standards

a) Material and product specifications for construction contracts and construction-related service contracts that may require the delivery of material or products will be used that satisfy the needs of the Department and that are developed in accordance with the following standards.

1) Material and product specifications will reflect the needs of the Department and will describe the technical or performance requirements necessary to complete the contemplated work.

2) Brand-name only product specifications, including patented or proprietary products, will not be used, unless:

A) such products may be procured competitively with equally suitable nonbrand-name products; or

B) such products are necessary for compatibility with existing facilities; or

C) no equally suitable alternate exists; or

D) such products are to be used for research or for a distinctive type of application for experimental purposes.

3) When more than one product will fulfill the requirements for an item of work and the products are judged by the Department to be of satisfactory quality, and equally acceptable on the basis of engineering analysis and estimated price, the contract specifications may contain or include by reference a qualified products list.

b) For nonconstruction and nonconstruction-related services contracts, the CPO~~Department~~ adopts the standards for specifications established by the CPO-GS~~Department of Central Management Services~~.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

SUBPART I~~H~~: SUSPENSION OF CONTRACTORS OR SUBCONTRACTORS

Section 6.480 Purpose

The purpose of this Subpart I~~H~~ is to establish the standards and procedures governing the administrative action of suspension that may be taken by the CPO~~Department~~ to safeguard the public interest in the solicitation, execution, administration and performance of public contracts or subcontracts. This Subpart applies to all suspension administrative actions taken by the CPO~~Department~~ regarding any contractor or subcontractor that has participated, is currently participating or may be expected to participate in any Department contract or subcontracts.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.490 Definitions

As used in this Subpart:

a) "Affiliates" means firms where one controls or has the power to control another, or a third party or parties controls or has the power to control both.

~~b) "Contract" means, in addition to the meaning set forth at Section 660.40, a written~~

~~agreement between a contractor and the Department, or an agreement subject to Department approval, regardless of form or method of procurement.~~

~~c)~~ ~~"Contractor" means any person, firm, corporation, organization, partnership, or association, however organized, and its affiliates, including its owners, directors, officers, partners, managers, key employees and others engaged in primary managerial or supervisory positions.~~

b~~d~~) "Hearing Officer" means the CPO~~Secretary~~ or an attorney, licensed to practice law in this State, appointed by the CPO~~Secretary~~.

c~~e~~) "Participation" means to enter into or attempt to enter into a contract awarded or approved by the Department, irrespective of the method of procurement, or any subcontract, material supply agreement or equipment lease transaction in connection with any such contract.

d~~f~~) "Indictment" means the charge, information, or other filing by a competent authority charging a criminal offense.

~~g)~~ ~~"Secretary" means the Secretary of Transportation.~~

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.500 Policy

In order to protect the public interest in the solicitation, execution and performance of contracts or subcontracts administered by the Department, it is the policy of the Department to conduct business only with contractors or subcontractors of responsible business integrity and honesty. Suspension is a discretionary action imposed in accordance with this Part to serve the public interest and to implement this policy. It may be imposed only for the causes and in accordance with the procedures set forth in this Subpart.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.510 General

The CPO~~Secretary~~ may suspend a contractor or subcontractor from participation on any contract or subcontract awarded by or requiring approval or concurrence of the Department upon a

determination by the CPO~~Secretary~~ based upon adequate evidence that the contractor or subcontractor has engaged in conduct proscribed by Section 6.520~~660.520~~ of this Subpart. This determination may be predicated on evidence developed by means of an investigation conducted by the CPO and procurement compliance monitors~~Department~~ and the record of any hearing requested and conducted pursuant to this Subpart; by review of the public record containing a criminal conviction, a civil judgment, or an admission under oath of conduct evidencing proscribed conduct including a plea of nolo contendere; or the findings and decisions made in accordance with law by another public agency, or another appointed CPO, that the contractor or subcontractor has engaged in conduct proscribed by Section 6.520~~660.520~~ of this Subpart.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.520 Causes for Suspension or Debarment

A contractor or subcontractor may be suspended or debarred from participation due to acts or omissions that indicate that the contractor or subcontractor lacks integrity and honesty in the conduct of business or the performance of contracts. Acts or omissions that indicate the lack of business integrity and honesty include but are not limited to:

a) fraud, bribery, embezzlement, theft, collusion, conspiracy, anti-competitive activity or other misconduct and offenses prohibited by law whether or not any such misconduct or offense is in connection with a Department contract or subcontract or any contract or subcontract requiring Department approval;

b) making a material false statement in an application for prequalification or any forms or affidavits required as part of a prequalification process;

c) materially violating any rule or procurement procedure or making a material false statement in connection with any rules or procurement procedures of the Department;

d) making a material false statement, representation, claim or report respecting the character, quality, quantity, or cost of any work performed or materials furnished in connection with a contract or subcontract administered or supervised by the Department;

e) doing business with a suspended contractor or subcontractor in connection with a contract or subcontract of the Department or subject to approval of the

Department during the period of suspension; or

f) being debarred or suspended by another agency of this State or the United States.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.530 Interim Suspension

The CPO~~Secretary~~ may immediately suspend a contractor or subcontractor prior to and during the pendency of a hearing provided by this Subpart if the CPO~~Secretary~~ finds that the facts and circumstances upon which the suspension cause is predicated are of such a nature as to require immediate action to safeguard the public interest in the solicitation, execution, administration or performance of contracts or subcontracts, whether awarded by the Department or subject to Department approval. An interim suspension may be imposed pending the completion of an investigation of the causes for suspension. Indictment upon charges evidencing a cause for suspension is a basis for an interim suspension. An interim suspension is effective immediately and will continue for a period of time established by the CPO~~Secretary~~ of up to 120 days unless terminated sooner by the CPO~~Secretary~~. The CPO~~Secretary~~ may extend the duration of an interim suspension beyond 120 days in order to allow for completion of a hearing that was scheduled for commencement during the original 120 day interim suspension period. In cases involving interim suspension based upon indictment, the interim suspension may be imposed for a period of up to one year or until conclusion of the legal proceeding.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.540 Voluntary Exclusion

A contractor or subcontractor may accept a status of nonparticipation or limited participation in Department contracts or subcontracts pursuant to the terms of an administrative settlement.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.550 Term of Suspension

Except as herein provided, the term of a suspension imposed by the CPO~~Secretary~~ will be for a period, commensurate with the seriousness of the cause or causes, of up to 10~~five~~ years. In cases involving the inadvertent or accidental failure to make the full disclosures required by Section 50-35 of the Code, the term of suspension will be for a period of no more than two years. (See

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Section 50-35(f) of the Code.) In cases involving the intentional, willful, or material failure to make the full disclosures required by Section 50-35 of the Code, the term of suspension will be for a period of not less than two years and not more than 10~~ten~~ years with eligibility for reinstatement after two years. (See Section 50-35(g) of the Code.)

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.560 Coverage

a) A suspension and interim suspension applies to the contractor or subcontractor set forth in the notice of suspension.

b) If the contractor or subcontractor named in the notice of suspension is a person, the suspension also applies to any other contractor or subcontractor:

1) in which the suspended person is an officer, director, manager or in any other substantial management or supervisory position, until such time as the person is severed from such contractor or subcontractor; or

2) in which the suspended person has controlling legal or beneficial financial interest, until such time as the suspended person's interests are divested.

c) In addition to all covered entities and affiliates, the suspension also applies to any entity or affiliate that is formed or organized subsequent to the date a suspension action was entered.

d) Any suspended contractor or subcontractor, for the term of such suspension, is ineligible to participate as a contractor, subcontractor, material supplier or lessor of equipment on or in connection with contracts or subcontracts awarded or approved by the Department.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.570 Other Agency Suspensions

Suspension under this Subpart I~~H~~ may be concurrent with or consecutive to any other suspension or debarment imposed by another public agency or CPO.

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(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.590 Continuation of Executory Contracts

Suspension or voluntary exclusion pursuant to this Subpart I~~H~~ shall not relieve a contractor or subcontractor or its surety of any obligation to be performed in accordance with the terms of any executory contract or bond that remains in full force and effect. Executory contracts are voidable by the Department without penalty or further payment, except payment for completed and accepted work, if the facts and circumstances giving rise to the suspension are of such a nature as to require action to safeguard the public interest.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.600 Exception Provision

A suspension action is final, except that the period of time during which a contractor or subcontractor is suspended may be decreased, delayed or rescinded at any time, if, in the judgment of the CPO~~Secretary~~, the public interest warrants such action. The CPO~~Secretary~~ may grant an exception permitting a suspended or voluntarily excluded contractor or subcontractor to participate in a particular contract or subcontract or type of contracts or subcontracts if the public interest will be served by the participation. A contractor or subcontractor suspended for the intentional, willful, or material failure to make the disclosures required by Section 50-35 of the Code is not eligible for exception or reinstatement until two years of the suspension shall have passed. (See Section 50-35(g) of the Code.)

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.610 Notice of Suspension

a) Any contractor or subcontractor that the Department proposes to suspend pursuant to this Part will be furnished written notice by personal service or by certified or registered mail.

b) The notice will include the following:

1) The cause for suspension on which the proposed suspension is based.

2) A clear and concise statement of the matters asserted and acts complained

of, and the statutes, cause or rules upon which the allegations in the notice are based.

3) The legal authority and jurisdiction under which the action is taken, and the consequences of a failure to respond.

c) A notice may be amended at any time.

d) If the CPO~~Secretary~~ has imposed an interim suspension, the notice will so indicate, will provide the reasons for the interim suspension, will state the interim period, and will state whether the interim suspension is pending completion of an investigation, an ensuing legal proceeding or a hearing provided according to this Subpart I~~H~~.

e) Except in cases of interim suspensions imposed by reason of indictment, the notice will set forth the right to request a hearing.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.620 Response and Request for Hearing

a) Any contractor or subcontractor receiving a notice of suspension may, within 30 days after receipt of a notice, file an appearance and request for a hearing. A contractor or subcontractor that does not file an appearance and request a hearing within the 30 days after receipt shall be deemed to have waived any hearing and will be subject to immediate suspension.

b) Within 30 days after receipt of a notice that imposes an interim suspension, the contractor or subcontractor may submit, in person, in writing, or through a representative, information, documentation and argument in opposition to the interim suspension. The CPO~~Secretary~~ will consider the contractor's or subcontractor's submission in light of the evidence developed in the pending investigation, and may modify or terminate the suspension or may leave it in force. The CPO's~~Secretary's~~ decision concerning imposition of an interim suspension is final without further hearing.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

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Section 6.630 Hearing Date and Hearing Officer

a) Upon receipt of an appearance and request for hearing, the CPO~~Secretary~~ will set the matter for a hearing within 30 days, and notify the contractor or subcontractor of the place, time and date of the hearing and the designated Hearing Officer.

b) The contractor or subcontractor may file a written motion for disqualification of a Hearing Officer, setting forth reasons of personal bias or conflict of interest, within three days after appointment of the Hearing Officer.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.640 Answer

The contractor or subcontractor may file a written answer to a notice not later than twenty days prior to the hearing date, but shall not be required to file an answer. The answer may include affirmative defenses.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.680 Hearing Procedures

a) The Hearing Officer has the authority to conduct and preside over the hearing, to take all necessary action to avoid delay, to maintain order, to ensure compliance with all notice requirements and to ensure the development of a clear and complete record. The Hearing Officer shall have all powers necessary to conduct a fair and impartial hearing including, but not limited to, the power to:

1) Administer oaths and affirmations;

2) Regulate the course of hearings, set the time and place for continued hearings, fix times for filing of documents, and in general conduct the proceedings, according to recognized principles of administrative law and the provisions of this Part;

3) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;

4) Rule upon all motions and offers of proof and receive relevant, material evidence admissible under the rules of evidence applied in civil cases in the circuit courts of the State, including evidence not admissible under those rules, but that is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs;

5) Direct parties to appear and confer for the simplification of issues, or presentation of evidence that may be received in written form without prejudice to the parties, and otherwise conduct pre-hearing conferences;

6) Dispose of procedural requests or similar matters;

7) Issue orders relating to pre-hearing discovery to the extent authorized by and permitted under this Part; and

8) Enter any order that further carries out the purpose of this Part.

b) The Hearing Officer has the authority to extend the date of any hearing, provided that the Hearing Officer may condition the granting of a contractor's request for an extension on the imposition or extension of an interim suspension should the circumstances warrant such action.

c) Any party to the hearing shall have the right to direct any other party to produce for inspection, copying, reproduction or photocopying written documents relevant to the subject matter of the hearing. Such request for documents shall be in writing and served on the party from whom production of documents is sought. A copy of the request shall be sent to the Hearing Officer and shall become part of the record of the case. The request shall specify a reasonable time, place and manner of making the inspection and copying.

d) The parties shall be afforded the opportunity to present, examine and cross-examine witnesses.

e) In cases where it has been established by admission or conviction or judgment of a court of competent jurisdiction that the contractor has engaged in conduct warranting a suspension or where it has been established by findings made in accordance with law by another public agency that the contractor has engaged in

conduct warranting a suspension, the sole issue before the Hearing Officer shall be the receipt of evidence as to the appropriate length of a suspension. In such cases the Hearing Officer shall not receive evidence relating to the merits of the prior judicial or administrative decision or findings.

f) The Hearing Officer shall make a report containing findings of fact and conclusions of law and shall transmit the entire record, including such findings and conclusions, to the CPO~~Secretary~~ for review and final decision. If the CPO~~Secretary~~ will not review the record prior to rendering a decision, the Hearing Officer will serve upon the parties a proposed decision to which the parties may file a brief containing exceptions.

g) Testimony at the hearing shall be recorded either by a certified court reporter or a mechanical recording device, but need not be transcribed unless requested by a party who shall pay for the transcription of the portion requested. The transcript and the record offered in connection with the hearing shall constitute the official record.

h) The record shall include:

1) All pleadings, motions, and rulings;

2) Evidence received;

3) A statement of matters officially noticed;

4) Offers of proof, objections and rulings thereon;

5) Any proposed findings and exceptions to the report of the Hearing Officer, and the decision.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

Section 6.690 Determination

a) Based on the record as a whole and an adequate evidence standard of proof, the CPO~~Secretary~~ will determine the suspension action to be taken.

b) In assessing adequate evidence, consideration will be given to how much credible information is available, its reasonableness in view of surrounding circumstances, corroboration or lack thereof as to important allegations, and inferences that may be drawn from the existence or absence of affirmative facts. This assessment will include an examination of basic documents such as contracts, inspection reports, and correspondence.

c) Upon reaching a final decision, the CPO~~Secretary~~ will notify the contractor or subcontractor of the determination and will set forth the period of time during which the contractor or subcontractor shall be suspended from bidding on Department contracts or contracts requiring Department approval or concurrence. Affected local government agencies will be notified of the final decision. Any interim suspension shall be deducted from the period of final suspension.

d) Parties will be served with a copy of the final decision by mail, postage prepaid, certified or registered, addressed to the last known address of the person, partnership, association, or company involved. A copy of the final decision will be mailed to each party and to all attorneys of record.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

SUBPART J~~I~~: MISCELLANEOUS

Section 6.740 Written Determinations

The CPO~~Chief Procurement Officer~~ will prescribe any administrative methods and operational procedures to be used in preparing written determinations required to be made by the Department by the Code or this Part, and will make such delegations to responsible officers for the implementation of the methods and procedures as will achieve the proper preparation, execution and retention of each written determination.

(Source: Amended at 35 Ill. Reg. 16518, effective September 30, 2011)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Hospital Services

2) Code Citation: 89 Ill. Adm. Code 148

3)

Section Numbers:	Adopted Action:
148.120	Amendment
148.122	Amendment

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

5) Effective Date of Amendments: October 1, 2011

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

7) Does this rulemaking contain incorporations by reference? No

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

9) Notice of Proposal Published in Illinois Register: October 22, 2010; 34 Ill. Reg. 15705

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

11) Differences Between Proposal and Final Version: None

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

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

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

15) Summary and Purpose of Amendments: This rulemaking changes methods and standards for setting certain payment rates for inpatient hospital reimbursement. The changes include:

Clarifying the definition of "obstetric services" used in the Disproportionate Share (DSH) and Medicaid Percentage Adjustment (MPA) payment programs, which will require eligible hospitals to provide non-emergency inpatient delivery services. This clarification

is believed to be in line with the requirements for DSH programs as specified in the Social Security Act and reduces the risk of losing federal funds associated with disproportionate share payments.

- Allowing DSH payments for government-owned hospitals to be calculated using a hospital specific inflator rather than the CMS Hospital Price Index. This change, in conjunction with changes in the Medicaid State Plan, will allow HFS to increase the amount of federal funds available to Illinois without increasing state or local expenditures.

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

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

PART 148
HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

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

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amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005;

emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 1997, effective January 15, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 5596, effective April 1, 2007; amended at 31 Ill. Reg. 8123, effective May 30, 2007; amended at 31 Ill. Reg. 8508, effective June 1, 2007; emergency amendment at 31 Ill. Reg. 10137, effective July 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11688, effective August 1, 2007; amended at 31 Ill. Reg. 14792, effective October 22, 2007; amended at 32 Ill. Reg. 312, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 518, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 2993, effective February 16, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8718, effective May 29, 2008; amended at 32 Ill. Reg. 9945, effective June 26, 2008; emergency amendment at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 33 Ill. Reg. 501, effective December 30, 2008; peremptory amendment at 33 Ill. Reg. 1538, effective December 30, 2008; emergency amendment at 33 Ill. Reg. 5821, effective April 1, 2009, for a maximum of 150 days; emergency expired August 28, 2009; amended at 33 Ill. Reg. 13246, effective September 8, 2009; emergency amendment at 34 Ill. Reg. 15856, effective October 1, 2010, for a maximum of 150 days; emergency expired February 27, 2011; amended at 34 Ill. Reg. 17737, effective November 8, 2010; amended at 35 Ill. Reg. 420, effective December 27, 2010; amended at 35 Ill. Reg. 10033, effective June 15, 2011; amended at 35 Ill. Reg. 16572, effective October 1, 2011.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.120 Disproportionate Share Hospital (DSH) Adjustments

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Disproportionate Share Hospital (DSH) adjustments for inpatient services provided prior to October 1, 2003, shall be determined and paid in accordance with the statutes and administrative rules governing the time period when the services were rendered. The Department shall make an annual determination of those hospitals qualified for adjustments under this Section effective October 1, 2003, and each October 1, thereafter unless otherwise noted.

a) Qualified Disproportionate Share Hospitals (DSH). For inpatient services provided on or after October 1, 2003, the Department shall make adjustment payments to hospitals that are deemed as disproportionate share by the Department. A hospital may qualify for a DSH adjustment in one of the following ways:

1) The hospital's Medicaid inpatient utilization rate (MIUR), as defined in subsection (i)(4) of this Section, is at least one standard deviation above the mean Medicaid utilization rate, as defined in subsection (i)(3) of this Section.

2) The hospital's low income utilization rate exceeds 25 per centum. For this alternative, payments for all patient services (not just inpatient) for Medicaid, Family and Children Assistance (formerly known as General Assistance) and/or any local or State government-funded care, must be counted as a percentage of all net patient service revenue. To this percentage, the percentage of total inpatient charges attributable to inpatient charges for charity care (less payments for Family and Children Assistance inpatient hospital services, and/or any local or State government-funded care) must be added.

b) In addition, to be deemed a DSH hospital, a hospital must provide the Department, in writing, with the names of at least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges ~~at the hospital~~ to perform nonemergency obstetric procedures at the hospital. This requirement does not apply to a hospital in which the inpatients are predominantly individuals under 18 years of age; or does not offer nonemergency obstetric services as of December 22, 1987. Hospitals that do not offer nonemergency obstetrics to the

general public, with the exception of those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4), must submit a statement to that effect.

c) In making the determination described in subsection (a)(1) of this Section, the Department shall utilize:

1) Hospital Cost Reports

A) The hospital's final audited cost report for the hospital's base fiscal year. Medicaid inpatient utilization rates, as defined in subsection (i)(4) of this Section, which have been derived from final audited cost reports, are not subject to the Review Procedure described in Section 148.310, with the exception of errors in calculation.

B) In the absence of a final audited cost report for the hospital's base fiscal year, the Department shall utilize the hospital's unaudited cost report for the hospital's base fiscal year. Due to the unaudited nature of this information, hospitals shall have the opportunity to submit a corrected cost report for the determination described in subsection (a)(1) of this Section. Submittal of a corrected cost report in support of subsection (a)(1) of this Section must be received or post marked no later than the first day of July preceding the DSH determination year for which the hospital is requesting consideration of such corrected cost report for the determination of DSH qualification. Corrected cost reports which are not received in compliance with these time limitations will not be considered for the determination of the hospital's MIUR as described in subsection (i)(4) of this Section.

C) In the event of extensions to the Medicare cost report filing process, those hospitals that do not have an audited or unaudited base year Medicaid cost report on file with the Department by the 30th of April preceding the DSH determination are required to complete and submit to the Department a Hospital Day Statistics Collection (HDSC) form. On the form, hospitals must provide total Medicaid days and total hospital days for the hospital's base fiscal year. The HDSC form must be submitted to the Department by the April 30th preceding the DSH determination.

i) If the Medicare deadline for submitting base fiscal year cost reports falls within the month of June preceding the DSH determination, hospitals, regardless of their base fiscal year end date, will have until the first day of August preceding the DSH determination to submit changes to their Medicaid cost reports for inclusion in the final DSH calculations. In this case, the HDSC form will not be used as a data source for the final rate year DSH determination.

ii) If the Medicare deadline for submitting base fiscal year cost reports is extended beyond the month of June preceding the DSH determination, the HDSC form will be used in the final DSH determination for all hospitals that do not have an audited or unaudited Medicaid cost report on file with the Department. Hospitals will have until the first day of July to submit any adjustments to the information provided on the HDSC form sent to the Department on April 30.

D) Hospitals' Medicaid inpatient utilization rates, as defined in subsection (i)(4) of this Section, which have been derived from unaudited cost reports or the HDSC form, are not subject to the Review Procedure described in Section 148.310, with the exception of errors in calculation. Pursuant to subsections (c)(1)(B) and (c)(1)(C)(ii) of this Section, hospitals shall have the opportunity to submit corrected information prior to the Department's final DSH determination.

E) In the event a subsequent final audited cost report reflects an MIUR, as described in subsection (i)(4) of this Section, which is lower than the Medicaid inpatient utilization rate derived from the unaudited cost report or the HDSC form utilized for the DSH determination, the Department shall recalculate the MIUR based upon the final audited cost report, and recoup any overpayments made if the percentage change in the DSH payment rate is greater than five percent.

2) Days Not Available from Cost Report
Certain types of inpatient days of care provided to Title XIX recipients are

not available from the cost report, i.e., Medicare/Medicaid crossover claims, out-of-state Title XIX Medicaid utilization levels, Medicaid Health Maintenance Organization (HMO) days, hospital residing long term care days, and Medicaid days for alcohol and substance abuse rehabilitative care under category of service 35. To obtain Medicaid utilization levels in these instances, the Department shall utilize:

A) Medicare/Medicaid Crossover Claims.

i) For DSH determination years on or after October 1, 1996, the Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for each hospital's base fiscal year. Provider logs as described in the following subsection (c)(3)(A)(ii) will not be used in the determination process for DSH determination years on or after October 1, 1996.

ii) For DSH determination years prior to October 1, 1996, hospitals may submit additional information to document Medicare/Medicaid crossover days that were not billed to the Department due to a determination that the Department had no liability for deductible or coinsurance amounts. That information must be submitted in log form. The log must include a patient account number or medical record number, patient name, Medicaid recipient identification number, Medicare identification number, date of admission, date of discharge, the number of covered days, and the total number of Medicare/Medicaid crossover days. That log must include all Medicare/Medicaid crossover days billed to the Department and all Medicare/Medicaid crossover days which were not billed to the Department for services provided during the hospital's base fiscal year. If a hospital does not submit a log of Medicare/Medicaid crossover days that meets the above requirements, the Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for the hospital's applicable base fiscal year.

B) Out-of-state Title XIX Utilization Levels. Hospital statements and verification reports from other states will be required to verify out-of-state Medicaid recipient utilization levels. The information submitted must include only those days of care provided to out-of-state Medicaid recipients during the hospital's base fiscal year.

C) HMO days. The Department will utilize the Department's HMO claims data available to the Department as of the last day of June preceding the DSH determination year, or specific claim information from each HMO, for each hospital's base fiscal year to determine the number of inpatient days provided to recipients enrolled in an HMO.

D) Hospital Residing Long Term Care Days. The Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of hospital residing long term care days provided to recipients.

E) Alcohol and Substance Abuse Days. The Department will utilize its paid claims data under category of service 35 available to the Department as of the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of inpatient days provided for alcohol and substance abuse rehabilitative care.

d) Hospitals may apply for DSH status under subsection (a)(2) of this Section by submitting an audited certified financial statement, for the hospital's base fiscal year, to the Department of Human Services or the Department of Public Aid. The statements must contain the following breakdown of information prior to submittal to the Department for consideration:

1) Total hospital net revenue for all patient services, both inpatient and outpatient, for the hospital's base fiscal year.

2) Total payments received directly from State and local governments for all patient services, both inpatient and outpatient, for the hospital's base fiscal year.

3) Total gross inpatient hospital charges for charity care (this must not include contractual allowances, bad debt or discounts, except contractual allowances and discounts for Family and Children Assistance, formerly known as General Assistance), for the hospital's base fiscal year.

4) Total amount of the hospital's gross charges for inpatient hospital services for the hospital's base fiscal year.

e) With the exception of cost-reporting children's hospitals in contiguous states that provide 100 or more inpatient days of care to Illinois program participants, only those cost-reporting hospitals located in states contiguous to Illinois that qualify for DSH in the state in which they are located based upon the Federal definition of a DSH hospital, as defined in section 1923(b)(1) of the Social Security Act, may qualify for DSH hospital adjustments under this Section. For purposes of determining the MIUR, as described in subsection (i)(4) of this Section and as required in section 1923(b)(1) of the Social Security Act, out-of-state hospitals will be measured in relationship to one standard deviation above the mean Medicaid inpatient utilization rate in their state. Out-of-state hospitals that do not qualify by the MIUR from their state may submit an audited certified financial statement as described in subsection (d) of this Section. Payments to out-of-state hospitals will be allocated using the same method as described in subsection (g) of this Section.

f) Time Limitation Requirements for Additional Information.

1) Except as provided in subsection (c)(1)(C), the information required in subsections (a), (c), (d) and (e) of this Section must be received or post marked no later than the first day of July preceding the DSH determination year for which the hospital is requesting consideration of such information for the determination of DSH qualification. Information required in subsections (a), (c), (d) and (e) of this Section which is not received or post marked in compliance with these limitations will not be considered for the determination of those hospitals qualified for DSH adjustments.

2) The information required in subsection (b) of this Section must be submitted after receipt of notification from the Department. Information required in this Section that is not received in compliance with these limitations will not be considered for the determination of those hospitals qualified for DSH adjustments.

g) Inpatient Payment Adjustments to DSH Hospitals. The adjustment payments required by subsection (a) of this Section shall be calculated annually as follows:

1) Five Million Dollar Fund Adjustment for hospitals defined in Section 148.25(b)(1), with the exception of any Illinois hospital that is owned or operated by the State or a unit of local government.

A) Hospitals qualifying as DSH hospitals under subsection (a)(1) or (a)(2) of this Section will receive an add-on payment to their inpatient rate.

B) The distribution method for the add-on payment described in subsection (g)(1) of this Section is based upon a fund of $5 million. All hospitals qualifying under subsection (g)(1)(A) of this Section will receive a $5 per day add-on to their current rate. The total cost of this adjustment is calculated by multiplying each hospital's most recent completed fiscal year Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) by $5. The total dollar amount of this calculation is then subtracted from the $5 million fund.

C) The remaining fund balance is then distributed to the hospitals that qualify under subsection (a)(1) of this Section in proportion to the percentage by which the hospital's MIUR exceeds one standard deviation above the State's mean Medicaid inpatient utilization rate, as described in subsection (i)(3) of this Section. This is done by finding the ratio of each hospital's percent Medicaid utilization to the State's mean plus one standard deviation percent Medicaid value. These ratios are then summed and each hospital's proportion of the total is calculated. These proportional values are then multiplied by each hospital's most recent completed fiscal year Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization). These weighted values are summed and each hospital's proportion of the summed weighted value is calculated. Each individual hospital's proportional value is then multiplied against the $5 million pool of money available after the $5 per day base add-on has been subtracted.

D) The total dollar amount calculated for each qualifying hospital under subsection (g)(1)(C) of this Section, plus the initial $5 per day add-on amount calculated for each qualifying hospital under subsection (g)(1)(B) of this Section, is then divided by the Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) to arrive at a per day add-on value. Hospitals qualifying under subsection (a)(2) of this Section will receive the minimum adjustment of $5 per inpatient day. The adjustments calculated under this subsection (g)(1) are subject to the limitations described in subsection (h) of this Section. The adjustments calculated under subsection (g) of this Section shall be paid on a per diem basis and shall be applied to each covered day of care provided.

2) Department of Human Services (DHS) State-Operated Facility Adjustment for hospitals defined in Section 148.25(b)(6). Department of Human Services State-operated facilities qualifying under subsection (a)(2) of this Section shall receive an adjustment for inpatient services provided on or after March 1, 1995. Effective October 1, 2000, the adjustment payment shall be calculated as follows:

A) The amount of the adjustment is based on a State DSH Pool. The State DSH Pool amount shall be the lesser of the federal DSH allotment for mental health facilities as determined in section 1923(h) of the Social Security Act, minus the estimated DSH payments to such facilities that are not operated by the State; or the result of subtracting the estimated DSH payment adjustments made under subsection (g)(1) of this Section and Section 148.170(f)(2) from the aggregate DSH payment allotment as provided for in section 1923(f) of the Social Security Act.

B) The State DSH Pool amount is then allocated to hospitals defined in Section 148.25(b)(6) that qualify for DSH adjustments by multiplying the State DSH Pool amount by each hospital's ratio of uncompensated care costs, from the most recent final cost report, to the sum of all qualifying hospitals' uncompensated care costs.

C) The adjustment calculated in subsection (g)(2)(B) of this Section

shall meet the limitation described in subsection (h)(4) of this Section.

D) The adjustment calculated pursuant to subsection (g)(2)(B) of this Section, for each hospital defined in Section 148.25(b)(6) that qualifies for DSH adjustments, is then divided by four to arrive at a quarterly adjustment. This amount is subject to the limitations described in subsection (h) of this Section. The adjustment described in this subsection (g)(2)(D) shall be paid on a quarterly basis.

3) Assistance for Certain Public Hospitals

A) The Department may make an annual payment adjustment to qualifying hospitals in the DSH determination year. A qualifying hospital is a public hospital as defined in section 701(d) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Public Law 106-554).

B) Hospitals qualifying shall receive an annual payment adjustment that is equal to:

i) A rate amount equal to the amount specified in the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, section 701(d)(3)(B) for the DSH determination year;

ii) Divided first by Illinois' Federal Medical Assistance Percentage; and

iii) Divided secondly by the sum of the qualified hospitals' total Medicaid inpatient days, as defined in subsection (i)(4) of this Section; and

iv) Multiplied by each qualified hospital's Medicaid inpatient days as defined in subsection (i)(4) of this Section.

C) The annual payment adjustment calculated under this subsection (g)(3), for each qualified hospital, will be divided by four and paid

on a quarterly basis.

D) Payment adjustments under this subsection (g)(3) shall be made without regard to subsections (h)(3) and (4) of this Section, 42 CFR 447.272, or any standards promulgated by the Department of Health and Human Services pursuant to section 701(e) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

E) In order to qualify for assistance payments under this subsection (g)(3), with regard to this payment adjustment, there must be in force an executed intergovernmental agreement between the authorized governmental body of the qualifying hospital and the Department.

4) Disproportionate Share Payments for Certain Government-Owned or -Operated Hospitals

A) The following classes of government-owned or -operated Illinois hospitals shall, subject to the limitations set forth in subsection (h) of this Section, be eligible for the Disproportionate Share Hospital Adjustment payment:

i) Hospitals defined in Section 148.25(b)(1)(A).

ii) Hospitals owned or operated by a unit of local government that is not a hospital defined in subsection (g)(4)(A)(i) of this Section.

iii) Hospital defined in Section 148.25(b)(1)(B).

B) The annual amount of the payment shall be the amount computed for the hospital pursuant to federal limitations. ~~, adjusted from the midpoint of the cost report period to the midpoint of the rate period using the CMS Hospital Price Index.~~

C) The annual amount shall be paid to the hospital in monthly installments. The portion of the annual amount not paid pending federal approval of payments shall, upon that approval, be paid in a

single lump sum payment. Except as indicated in this subsection (g)(4)(C), the annual amount shall be paid to the hospital in 12 equal installments and paid monthly.

h) DSH Adjustment Limitations.

1) Hospitals that qualify for DSH adjustments under this Section shall not be eligible for the total DSH adjustment if, during the DSH determination year, the hospital discontinues provision of nonemergency obstetrical care. The provisions of this subsection (h)(1) shall not apply to those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4) or those hospitals that have not offered nonemergency obstetric services as of December 22, 1987. In this instance, the adjustments calculated under subsection (g)(1) shall cease to be effective on the date that the hospital discontinued the provision of such nonemergency obstetrical care.

2) Inpatient Payment Adjustments based upon DSH Determination Reviews. Appeals based upon a hospital's ineligibility for DSH payment adjustments, or their payment adjustment amounts, in accordance with Section 148.310(b), which result in a change in a hospital's eligibility for DSH payment adjustments or a change in a hospital's payment adjustment amounts, shall not affect the DSH status of any other hospital or the payment adjustment amount of any other hospital that has received notification from the Department of its eligibility for DSH payment adjustments based upon the requirements of this Section.

3) DSH Payment Adjustment. In accordance with Public Law 102-234, if the aggregate DSH payment adjustments calculated under this Section do not meet the State's final DSH Allotment as determined by the federal Centers for Medicare and Medicaid Services, DSH payment adjustments calculated under this Section shall be adjusted to meet the State DSH Allotment. Subject to any limitation, disproportionate share payments will be made to qualifying hospitals in the following order:

A) Psychiatric hospitals operated by the Illinois Department of Human Services – the annual amount shall be credited quarterly via certification of public expenditure.

B) Hospitals defined in Section 148.25(b)(1)(B).

C) Hospitals owned and operated by a unit of local government that is not a hospital defined in Section 148.25(b)(1)(A).

D) Hospitals that are not owned or operated by a unit of government – the annual amount shall be paid on each inpatient claim.

E) Hospitals defined in Section 148.25(b)(1)(A).

4) Omnibus Budget Reconciliation Act of 1993 (OBRA'93) Adjustments. In accordance with Public Law 103-66, adjustments to individual hospitals' disproportionate share payments shall be made if the sum of estimated Medicaid payments (inpatient, outpatient, and disproportionate share) to a hospital exceed the costs of providing services to Medicaid clients and persons without insurance. Federal upper payment limit requirements (42 CFR 447.272) shall be considered when calculating the OBRA'93 adjustments. The adjustments shall reduce disproportionate share spending until the costs and spending (described in this subsection (h)(4)) are equal or until the disproportionate share payments are reduced to zero. In this calculation, persons without insurance costs do not include contractual allowances. Hospitals qualifying for DSH payment adjustments must submit the information required in Section 148.150.

5) Medicaid Inpatient Utilization Rate Limit. Hospitals that qualify for DSH payment adjustments under this Section shall not be eligible for DSH payment adjustments if the hospital's MIUR, as defined in subsection (i)(4) of this Section, is less than one percent.

i) Inpatient Payment Adjustment Definitions. The definitions of terms used with reference to calculation of the inpatient payment adjustments are as follows:

1) "Base fiscal year" means, for example, the hospital's fiscal year ending in 2001 for the October 1, 2003 DSH determination year, the hospital's fiscal year ending in 2002 for the October 1, 2004 DSH determination year, etc.

2) "DSH determination year" means the 12 month period beginning on October 1 of the year and ending September 30 of the following year.

3) "Mean Medicaid inpatient utilization rate" means a fraction, the numerator of which is the total number of inpatient days provided in a given 12-month period by all Medicaid-participating Illinois hospitals to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 1396a et seq.), and the denominator of which is the total number of inpatient days provided by those same hospitals. Title XIX specifically excludes days of care provided to Family and Children Assistance (formerly known as General Assistance) but does include the types of days described in subsections (c)(1) and (c)(2) of this Section. In this subsection (i)(3), the term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

4) "Medicaid inpatient utilization rate" means a fraction, the numerator of which is the number of a hospital's inpatient days provided in a given 12 month period to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 1396a et seq.) and the denominator of which is the total number of the hospital's inpatient days in that same period. Title XIX specifically excludes days of care provided to Family and Children Assistance (formerly known as General Assistance) but does include the types of days described in subsections (c)(1) and (c)(2) of this Section. In this subsection (i)(4), the term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

5) "Obstetric services" shall at a minimum include non-emergency inpatient deliveries in the hospital.

(Source: Amended at 35 Ill. Reg. 16572, effective October 1, 2011)

Section 148.122 Medicaid Percentage Adjustments

The Department shall make an annual determination of those hospitals qualified for adjustments under this Section effective October 1, 2003, and each October 1 thereafter unless otherwise noted.

a) Qualified Medicaid Percentage Hospitals. For inpatient services provided on or after October 1, 2003, the Department shall make adjustment payments to hospitals that are deemed as a Medicaid percentage hospital by the Department. A hospital, except those that are owned or operated by a unit of government, may qualify for a Medicaid Percentage Adjustment in one of the following ways:

1) The hospital's Medicaid inpatient utilization rate (MIUR), as defined in Section 148.120(i)(4), is at least one-half standard deviation above the mean Medicaid utilization rate, as defined in Section 148.120(i)(3).

2) The hospital's low income utilization rate exceeds 25 per centum. For this alternative, payments for all patient services (not just inpatient) for Medicaid, Family and Children Assistance (formerly known as General Assistance) and/or any local or State government-funded care, must be counted as a percentage of all net patient service revenue. To this percentage, the percentage of total inpatient charges attributable to inpatient charges for charity care (less payments for Family and Children Assistance inpatient hospital services, and/or any local or State government-funded care) must be added.

3) Illinois hospitals that, on July 1, 1991, had an MIUR, as defined in Section 148.120(i)(4), that was at least the mean Medicaid inpatient utilization rate, as defined in Section 148.120(i)(3), and that were located in a planning area with one-third or fewer excess beds as determined by the Illinois Health Facilities Planning Board (77 Ill. Adm. Code 1100), and that, as of June 30, 1992, were located in a federally designated Health Manpower Shortage Area (42 CFR 5 (1989)).

4) Illinois hospitals that:

A) Have an MIUR, as defined in Section 148.120(i)(4), that is at least the mean Medicaid inpatient utilization rate, as defined in Section 148.120(i)(3); and

B) Have a Medicaid obstetrical inpatient utilization rate, as defined in subsection (g)(3) of this Section, that is at least one standard deviation above the mean Medicaid obstetrical inpatient utilization rate, as defined in subsection (g)(2) of this Section.

5) Any children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3).

6) Out of state hospitals meeting the criteria in Section 148.120(e).

b) In making the determination described in subsections (a)(1) and (a)(4)(A) of this Section, the Department shall utilize the data described in Section 148.120(c) and received in compliance with Section 148.120(f).

c) Hospitals may apply to become a qualified Medicaid Percentage Adjustment hospital under subsection (a)(2) of this Section by submitting audited certified financial statements as described in Section 148.120(d) and received in compliance with Section 148.120(f).

d) Medicaid Percentage Adjustments. The adjustment payments required by subsection (a) of this Section for qualified hospitals shall be calculated annually as follows for hospitals defined in Section 148.25(b)(1), excluding hospitals defined in Section 148.25(b)(1)(A) and (b)(1)(B).

1) The payment adjustment shall be calculated based upon the hospital's MIUR, as defined in Section 148.120(i)(4), and subject to subsection (e) of this Section, as follows:

A) Hospitals with an MIUR below the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $25;

B) Hospitals with an MIUR that is equal to or greater than the mean Medicaid inpatient utilization rate but less than one standard deviation above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $25 plus $1 for each one percent that the hospital's MIUR exceeds the mean Medicaid inpatient utilization rate;

C) Hospitals with an MIUR that is equal to or greater than one standard deviation above the mean Medicaid inpatient utilization rate but less than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $40 plus $7 for each one percent that the hospital's MIUR exceeds one

standard deviation above the mean Medicaid inpatient utilization rate; and

D) Hospitals with an MIUR that is equal to or greater than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $90 plus $2 for each one percent that the hospital's MIUR exceeds 1.5 standard deviations above the mean Medicaid inpatient utilization rate.

2) The Medicaid Percentage Adjustment payment, calculated in accordance with this subsection (d), to a hospital, other than a hospital and/or hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), shall not exceed $155 per day for a children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3), and shall not exceed $215 per day for all other hospitals.

3) The amount calculated pursuant to subsections (d)(1) through (d)(2) of this Section shall be adjusted by the aggregate annual increase in the national hospital market basket price proxies (DRI) hospital cost index from DSH determination year 1993, as defined in Section 148.120(i)(2), through DSH determination year 2003, and annually thereafter, by a percentage equal to the lesser of:

A) The increase in the national hospital market basket price proxies (DRI) hospital cost index for the most recent 12 month period for which data are available; or

B) The percentage increase in the Statewide average hospital payment rate, as described in subsection (g)(5) of this Section, over the previous year's Statewide average hospital payment rate.

4) The amount calculated pursuant to subsections (d)(1) through (d)(3) of this Section, as adjusted pursuant to subsection (e) of this Section, shall be the inpatient payment adjustment in dollars for the applicable Medicaid percentage determination year. The adjustments calculated under subsections (d)(1) through (d)(3) of this Section shall be paid on a per diem basis and shall be applied to each covered day of care provided.

e) Inpatient Adjustor for Children's Hospitals. For a children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3), the payment adjustment calculated under subsection (d)(1) of this Section shall be multiplied by 2.0.

f) Medicaid Percentage Adjustment Limitations.

1) In addition, to be deemed a Medicaid Percentage Adjustment hospital, a hospital must provide to the Department, in writing, the names of at least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the federal Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges ~~at the hospital~~ to perform non-emergency obstetric procedures at the hospital. This requirement does not apply to a hospital in which the inpatients are predominantly individuals under 18 years of age, or does not offer non-emergency obstetric services as of December 22, 1987. Hospitals that do not offer non-emergency obstetrics to the general public, with the exception of those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4), must submit a statement to that effect.

2) Hospitals that qualify for Medicaid Percentage Adjustments under this Section shall not be eligible for the total Medicaid Percentage Adjustment if, during the Medicaid Percentage Adjustment determination year, the hospital discontinues provision of non-emergency obstetrical care. The provisions of this subsection (f)(2) shall not apply to those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4) or those hospitals that have not offered non-emergency obstetrical services as of December 22, 1987. In this instance, the adjustments calculated under subsection (d) shall cease to be effective on the date that the hospital discontinued the provision of such non-emergency obstetrical care.

3) Appeals based upon a hospital's ineligibility for Medicaid Percentage payment adjustments, or their payment adjustment amounts, in accordance with Section 148.310(b), which result in a change in a hospital's eligibility for Medicaid Percentage payment adjustments or a change in a hospital's payment adjustment amounts, shall not affect the Medicaid Percentage status of any other hospital or the payment adjustment amount of any other

hospital that has received notification from the Department of its eligibility for Medicaid Percentage payment adjustments based upon the requirements of this Section.

4) Medicaid Inpatient Utilization Rate Limit. Hospitals that qualify for Medicaid percentage payment adjustments under this Section shall not be eligible for Medicaid percentage payment adjustments if the hospital's MIUR, as defined in Section 148.120(i)(4), is less than one percent.

g) Inpatient Payment Adjustment Definitions. The definitions of terms used with reference to calculation of Inpatient Payment Adjustments are as follows:

1) "Medicaid Percentage determination year" means the 12 month period beginning on October 1 of the year and ending September 30 of the following year.

2) "Mean Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the total Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection (g)(4) of this Section, provided by all Medicaid-participating Illinois hospitals providing obstetrical services to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 1396a), and the denominator of which is the total Medicaid inpatient days, as defined in subsection (g)(6) of this Section, for all such hospitals. That information shall be derived from claims for applicable services provided in the Medicaid obstetrical inpatient utilization rate base year that were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base.

3) "Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection (g)(4) of this Section, provided by a Medicaid-participating Illinois hospital providing obstetrical services to patients who, for such days, were eligible for Medicaid under Title XIX of the federal Social Security Act (42 USC 1396a), and the denominator of which is the total Medicaid (Title XIX) inpatient days, as defined in subsection (g)(6) of this Section, provided by such hospital. This information shall be derived from claims for applicable services provided

in the Medicaid obstetrical inpatient utilization rate base year that were subsequently adjudicated by the Department through the last day of June preceding the Medicaid Percentage determination year and contained within the Department's paid claims data base.

4) "Medicaid (Title XIX) obstetrical inpatient days" means hospital inpatient days that were subsequently adjudicated by the Department through the last day of June preceding the Medicaid Percentage Adjustment determination year and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, with a Diagnosis Related Grouping (DRG) of 370 through 375, and specifically excludes Medicare/Medicaid crossover claims.

5) "Statewide average hospital payment rate" means the hospital's alternative reimbursement rate, as defined in Section 148.270(a).

6) "Total Medicaid (Title XIX) inpatient days", as referred to in subsections (g)(2) and (g)(3) of this Section, means hospital inpatient days, excluding days for normal newborns, that were subsequently adjudicated by the Department through the last day of June preceding the Medicaid Percentage determination year and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, and specifically excludes Medicare/Medicaid crossover claims.

7) "Medicaid obstetrical inpatient utilization rate base year" means, for example, fiscal year 2002 for the October 1, 2003, Medicaid Percentage Adjustment determination year; fiscal year 2003 for the October 1, 2004, Medicaid Percentage Adjustment determination year; etc.

8) "Obstetric services" shall at a minimum include non-emergency inpatient deliveries in the hospital.

(Source: Amended at 35 Ill. Reg. 16572, effective October 1, 2011)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Nitrogen Oxides Emissions

2) Code Citation: 35 Ill. Adm. Code 217

3)

Section Numbers:	Adopted Action:
217.451	New
217.454	Amend
217.456	Amend

4) Statutory Authority: Implementing and authorized by Sections 9.9, 10, 27, 28, and 28.5 of the Environmental Protection Act [415 ILCS 5/9.9, 10, 27, 28, and 28.5]

5) Effective Date of Amendments: September 27, 2011

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 Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and is available there for public inspection.

9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 8363; June 3, 2011

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

11) Differences between proposal and final version: Other than non-substantive, grammatical and consistency changes proposed by JCAR, there are no differences between the Board's first notice proposal and the final version.

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

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

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

15) Summary and Purpose of Amendments: For a more detailed description of this rulemaking, please see the Board's September 22, 2011 opinion and order adopting these

rules. In the Matter of: NO_x Trading Program Sunset Provisions for Non-Electric Generating Units: Amendments to 35 Ill. Adm. Code Part 217.Subpart U (September 22, 2011).

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

Daniel Robertson
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6931

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R11-08 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

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SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 217
NITROGEN OXIDES EMISSIONS

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POLLUTION CONTROL BOARD

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217.180 Applicability
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SUBPART G: GLASS MELTING FURNANCES

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POLLUTION CONTROL BOARD

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SUBPART O: CHEMICAL MANUFACTURE

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POLLUTION CONTROL BOARD

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POLLUTION CONTROL BOARD

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217.APPENDIX H	Compliance Dates for Certain Emissions Units at Petroleum Refineries

AUTHORITY: Implementing Sections 9.9 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9.9, 10, 27 and 28.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 207: Nitrogen Oxides Emissions, R71-23, 4 PCB 191, April 13, 1972, filed and effective April 14, 1972; amended at 2 Ill. Reg. 17, p. 101, effective April 13, 1978; codified at 7 Ill. Reg. 13609; amended in R01-9 at 25 Ill. Reg. 128, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4597, effective March 15, 2001; amended in R01-16 and R01-17 at 25 Ill. Reg. 5914, effective April 17, 2001; amended in R07-18 at 31 Ill. Reg. 14271, effective September 25, 2007; amended in R07-19 at 33 Ill. Reg. 11999, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13345, effective August 31, 2009; amended in R09-20 at 33 Ill. Reg. 15754, effective November 2, 2009; amended in R11-17 at 35 Ill. Reg. 7391, effective April 22, 2011; amended in R11-24 at 35 Ill. Reg. 14627, effective August 22, 2011; amended in R11-08 at 35 Ill. Reg. 16600, effective September 27, 2011.

SUBPART U: NO_x CONTROL AND TRADING PROGRAM FOR SPECIFIED NO_x GENERATING UNITS

Section 217.451 Sunset Provisions

Except for Sections 217.454(a) and (b) and 217.456(c), (e)(1)(B) through (D), and (e)(2), the provisions of this Subpart U shall not apply for any control period in 2009 or thereafter. Compliance for 2009 and after is required for these subsections. Noncompliance with the provisions of this Subpart that occurred prior to 2009 is subject to the applicable provisions of this Subpart.

(Source: Added at 35 Ill. Reg. 16600, effective September 27, 2011)

Section 217.454 Applicability

a) This Subpart applies to any fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system, with a maximum design heat input greater than 250 mmbtu/hr and that is:

1) A unit listed in Appendix E of this Subpart, irrespective of any subsequent changes in ownership, unit designation, or name of the unit; or

2) A unit not listed in Appendix E of this Subpart that:

A) At no time serves a generator producing electricity for sale;

B) At any time serves a generator producing electricity for sale, if such generator has a nameplate capacity of 25 MWe or less and has the potential to use no more than 50% of the potential electrical output capacity of the unit. Fifty percent of a unit's potential electrical output capacity shall be determined by multiplying the unit's maximum design heat input by 0.0488 MWe/mmbtu. If the size of the generator is smaller than this calculated number, the unit is subject to the provisions of this Subpart, but if the size of the generator is greater than this calculated number, the unit is subject to the provisions of Subpart W of this Part;

C) Is part of any source, as that term is defined in 35 Ill. Adm. Code Section 211.6130, listed in Appendix E of this Part; or

D) Is a unit subject to Subpart W of this Part (excluding any unit listed in Appendix F of this Part, regardless of any change in ownership or any change of operator), and the owner or operator makes a permanent election, at the time of applying for a budget permit pursuant to this Part, to subject the unit to the requirements of this Subpart rather than Subpart W of this Part. Any unit for which such an election is made will not receive an allocation from the Subpart U or Subpart W NO_x Trading Budget.

b) Those units that meet the above criteria ~~and are subject to the NO_x Trading Program emissions limitations contained in this Subpart~~ are budget units.

c) Low-emitter status: Notwithstanding subsection (a) of this Section, the owner or operator of a budget unit subject to the requirements of subsection (a) of this Section may elect low-emitter status by obtaining a permit with federally enforceable conditions that meet the requirements of Section 217.472(a). Starting with the effective date of such permit, the unit shall be subject only to the requirements of Section 217.472.

d) The owner or operator of any budget unit not listed in Appendix E of this Part but subject to this Subpart shall not receive an allocation of NO_x allowances from the Subpart U or Subpart W NO_x Trading Budget, except for any allowance from the new source set-aside in accordance with Section 217.468 of this Subpart. Such unit must acquire NO_x allowances in an amount not less than the NO_x emissions from such budget unit during the control period (rounded to the nearest whole ton) in accordance with the federal NO_x Trading Program, Subpart X of this Part or pursuant to a permanent transfer of NO_x allocations pursuant to Section 217.462(b) of this Subpart.

e) Notwithstanding any other provisions of this Subpart, a source and units at the source subject to the provisions of subsection (a) of this Section will become subject to this Subpart on *the first day of the control season subsequent to the calendar year in which all of the other states subject to the provisions of the NO_x SIP Call* (63 Fed. Reg. 57355 (October 27, 1998)) *that are located in USEPA Region V or are that contiguous to Illinois have adopted regulations to implement NO_x trading programs and other required reductions of NO_x emissions pursuant to the NO_x SIP Call, and such regulations have received final approval by USEPA as part of the respective states' SIPs for ozone, or a final FIP for ozone promulgated by USEPA is effective.* [415 ILCS 5/9.9(f)]

(Source: Amended at 35 Ill. Reg. 16600, effective September 27, 2011)

Section 217.456 Compliance Requirements

All budget units subject to the requirements of this Subpart must comply with the following:

a) The requirements of this Subpart and 40 CFR 96, excluding 40 CFR 96.4(b), 96.55(c) and subparts C, E, and I, as incorporated by reference in Section 217.104 of this Part. To the extent that this Subpart contains provisions which are inconsistent with any provisions of 40 CFR 96, the owner or operator of budget units subject to this Subpart shall comply with the provisions of this Subpart in lieu of those provisions which were incorporated by reference.

b) Budget permit requirements:

1) The owner or operator of each source with one or more budget units at the source subject to this Subpart must submit a complete permit application

for a budget permit in accordance with the provisions of Section 217.458(a)(4), (a)(5) or (a)(6), as applicable, to be issued by the Agency with federally enforceable conditions covering the NO_x Trading Program (budget permit), and that complies with the requirements of Section 217.458 of this Subpart.

2) The owner or operator of one or more budget units subject to this Subpart must operate each such budget unit in compliance with such budget permit or complete budget permit application, as applicable.

3) The owner or operator of one or more budget units subject to this Subpart, at the time of filing an application for a permit under this Section, must submit a complete application for either a permit incorporating a source-wide overdraft account (as such term is defined in 40 CFR 96.2), or a permit incorporating unit specific compliance accounts for each budget unit at the source subject to this Subpart. Such election shall be at the sole discretion of the owner or operator of the source and the Agency shall incorporate such election into a permit issued to the source pursuant to this Subpart.

c) Monitoring requirements:

1) For budget units subject to the requirements of this Subpart, and which commence operation on and after January 1, 2000, the owner or operator of each such budget unit at the source must comply with the monitoring requirements of 40 CFR 96, subpart H. The account representative of each such budget unit at the source shall comply with those sections of the monitoring requirements of 40 CFR 96, subpart H, applicable to an account representative.

2) The compliance of each budget unit subject to the requirements of subsection (c)(1) or subsection (c)(3)(A) of this Section with the control period NO_x emissions limitation under subsection (d) of this Section shall be determined by the emissions measurements recorded and reported in accordance with 40 CFR 96, subpart H.

3) For budget units which commenced operation prior to January 1, 2000:

A) The owner or operator of each such budget unit at the source must

comply with the requirements of 40 CFR 96, subpart H; or

B) If the monitoring requirements of 40 CFR 96, subpart H, are demonstrated by the source to be technically infeasible as applied to a budget unit subject to the requirements of this Subpart, the owner or operator of such budget unit may monitor by an alternative monitoring procedure for the budget unit approved by the Agency and the Administrator of USEPA pursuant to the provisions of 40 CFR 75, subpart E. Such alternative monitoring procedures must be contained as federally enforceable conditions in the unit's permit.

4) The compliance of each budget unit subject to the requirements of subsection (c)(3)(B) of this Section shall be determined by the emissions measurements recorded and reported in accordance with the federally enforceable conditions in the budget unit's permit addressing monitoring as required by subsection (c)(3)(B) of this Section.

d) Allowance requirements:

1) As of November 30 of each year, the allowance transfer deadline, the account representative of each source subject to the requirements of this Subpart must hold allowances available for compliance deductions under 40 CFR 96.54 for each budget unit at the source subject to this Subpart in the budget unit's compliance accounts, or the source's overdraft account. The number of allowances held in these accounts shall not be less than the total NO_x emissions for the control period (rounded to the nearest whole ton), as determined in accordance with subsection (c) of this Section, plus any number of allowances necessary to account for actual utilization (e.g., for testing, start-up, malfunction, and shut down) under 40 CFR 96.42(e) for all budget units at the source subject to this Subpart. Compliance with this provision shall be demonstrated if, as of the allowance transfer deadline, the sum of the allowances available for compliance deductions for all budget units at the source subject to this Subpart is equal to or greater than the total NO_x emissions (rounded to the nearest whole ton) from all budget units at the source subject to this Subpart.

2) Allowances shall be held in, deducted from, or transferred among allowance accounts in accordance with this Subpart and 40 CFR 96,

subparts F and G.

3) Each ton of NO_x emitted by a source with one or more budget units subject to this Subpart in any control period in excess of the NO_x allowances held by the owner or operator for each budget unit at the source subject to this Subpart for each control period shall constitute a separate violation of this Subpart and the Act.

4) In order to comply with the requirements of subsection (d)(1) of this Section, an allowance may not be utilized for a control period in a year prior to the year for which the allowance was allocated.

5) An allowance allocated by the Agency or USEPA under the NO_x Trading Program is a limited authorization to emit one ton of NO_x. No provision of the NO_x Trading Program, any permit issued or permit application submitted pursuant to this Subpart, or an exemption under 40 CFR 96.5 and no provision of law shall be construed to limit the authority of the United States or the State to terminate or limit this authorization.

6) An allowance allocated by the Agency or USEPA under the NO_x Trading Program or pursuant to this Subpart does not constitute a property right.

7) Upon recordation by USEPA under 40 CFR 96, subpart F or G, every allocation, transfer, or deduction of an allowance to or from a budget unit's compliance account or to or from the source's general or overdraft account where the budget unit is located is deemed to amend automatically and become a part of any budget permit of the budget unit. This automatic amendment of the budget permit shall occur by operation of law and will not require any further review.

e) Recordkeeping and reporting requirements:

1) Unless otherwise provided, the owner or operator of a source subject to the requirements of this Subpart must keep at the source each of the documents listed in subsections (e)(1)(A) through (e)(1)(D) of this Section for a period of 5 years from the date the document is created. This period may be extended for cause at any time prior to the end of 5 years in writing by the Agency or USEPA.

A) The account certificate of representation for the account representative for the source and each budget unit at the source subject to the requirements of this Subpart and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with 40 CFR 96.13, provided that the certificate and such supporting documents must be retained on site at the source beyond such five-year period until such documents are superseded because of the submission of a new account certificate of representation changing the account representative.

B) All emissions monitoring information, in accordance with subsection (c) of this Section, provided that to the extent that 40 CFR 96, subpart H, provides for a three-year period for recordkeeping, the three-year period shall apply.

C) Copies of all reports~~, compliance certifications,~~ and other submissions and all records made or required under this Subpart ~~or the NOx Trading Program~~ or documents necessary to demonstrate compliance with the requirements of this Subpart ~~or the NO_x Trading Program~~.

D) Copies of all documents ~~used to complete a budget permit application~~ and any other submission under this Subpart ~~or under the NO_x Trading Program~~.

2) The account representative of a source and each budget unit at the source subject to the requirements of this Subpart must submit to the Agency and USEPA the reports ~~and compliance certifications~~ required under this Subpart ~~and the NO_x Trading Program~~, including those under 40 CFR 96, subpart~~subparts D and~~ H.

f) Liability:

1) No revision of a budget permit shall excuse any violation of the requirements of the NO_x Trading Program or this Subpart that occurs prior to the date that the revision under such budget permit takes effect.

2) Each budget source and each budget unit at the source shall meet the requirements of the NO_x Trading Program.

3) Any provision of this Subpart or the NO_x Trading Program that applies to a source subject to the requirements of this Subpart (including a provision applicable to the account representative of the source) shall also apply to the owner and operator of such source and to the owner and operator of the budget units subject to the requirements of this Subpart at the source.

4) Any provision of this Subpart or the NO_x Trading Program that applies to a budget unit subject to the requirements of this Subpart (including a provision applicable to the account representative of such budget unit) shall also apply to the owner and operator of such budget unit. Except with regard to the requirements applicable to budget units with a common stack under 40 CFR 96, subpart H, the owner and operator and the account representative of one budget unit shall not be liable for any violation by any other budget unit of which they are not an owner or operator or the account representative and that is located at a source of which they are not an owner or operator or the account representative.

5) Excess emissions requirements: The account representative of a source that has excess emissions in any control period shall surrender the allowances as required for deduction under 40 CFR 96.54(d)(1).

6) The owner or operator of a budget EGU that has excess emissions in any control period shall pay any fine, penalty, or assessment or comply with any other remedy imposed under 40 CFR 96.54(d)(3) and the Act.

g) Effect on other authorities: No provision of this Subpart, the NO_x Trading Program, a budget permit application, a budget permit, or a retired budget unit exemption under 40 CFR 96.5 shall be construed as exempting or excluding the owner or operator and, to the extent applicable, the account representative of a source or budget unit from compliance with any other regulations promulgated under the CAA, the Act, an approved State implementation plan, or a federally enforceable permit.

(Source: Amended at 35 Ill. Reg. 16600, effective September 27, 2011)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Hospital/Medical/Infectious Waste Incinerators

2) Code Citation: 35 Ill. Adm. Code 229

3)

Section Numbers:	Adopted Action:
229.100	Amend
229.102	Amend
229.104	Amend
229.110	Amend
229.112	Amend
229.115	Amend
229.116	Amend
229.120	Amend
229.125	Amend
229.126	Amend
229.130	Repeal
229.142	Amend
229.146	Amend
229.148	Amend
229.150	Amend
229.152	Amend
229.154	Amend
229.156	Amend
229.158	Amend
229.160	Amend
229.162	Amend
229.166	Amend
229.168	Amend
229.180	Amend
229.182	Amend
229.184	Amend
229.APPENDIX B	Amend
229.APPENDIX C	Amend

4) Statutory Authority: Implementing and authorized by Sections 10, 27, 39 and 39.5 of the Environmental Protection Act [415 ILCS 5/10, 27, 39, and 39.5]

5) Effective Date of Amendments: September 29, 2011

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

7) Does this rulemaking contain incorporations by reference? Yes. See Section 229.104, listing all incorporations by reference.

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and is available there for public inspection.

9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 10224; July 1, 2011

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

11) Differences between proposal and final version: In addition to nonsubstantive changes made at Second Notice, the following changes were made:

1. In Section 229.102, in the definition of "Minimum secondary chamber temperature", delete "and" before "dioxin/furan," and insert it before "applicable".

2. In Section 229.116(a)(2) and (b), insert "(a)(1) or" after "Section 229.110".

3. In Section 229.116(b), change "Sections" to "Section" and "and" to "or".

3. In Section 229.142(b)(1), replace "(a)(2)(B)(v) after "229.115" with "(b)(2)(B)(v)".

4. In Section 229.152(a)(2), replace "Appendices" with "appendices".

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

13) Will these amendments replace emergency amendments currently in effect? No

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

15) Summary and Purpose of Amendments: A lengthier description of this rulemaking is contained in the Board's final opinion and order in Amendments to 35 Ill. Adm. Code Part 229: Hospital/Medical/Infectious Waste Incinerators (HMIWI), R11-20 (September

22, 2011). The adopted rules are based on a proposal filed December 23, 2011 by the Illinois Environmental Protection Agency (IEPA). They reflect amendments adopted by the United States Environmental Protection Agency (USEPA) to tighten up federal air quality standards, including new source performance standards and emissions guidelines.

The proposed rules are more stringent than existing rules, and have a January 1, 2014 compliance date. The IEPA reports Illinois currently has only one HMIWI facility to which the new rules would apply: the Stericycle, Inc. facility located in Clinton, DeWitt County. The Board held a hearing on the proposed rules on June 8, 2011. Stericycle testified that it believed it could come into compliance by the various interim dates set in the rules.

If Illinois does not adopt rules as state law, USEPA will act instead. USEPA adopted its "Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators" at 74 Fed. Reg. 51368 (Oct. 6, 2009). Section 129(b)(3) of the federal Clean Air Act (CAA), 42 USC7429(c), requires USEPA to develop a Federal Implementation Plan (FIP) within two years of federal rule promulgation of rules *i.e.* by October 6, 2011, unless the states adopt an approvable State Implementation Plan (SIP) revision containing the new incinerator rules.

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

Kathleen Crowley
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6929

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R11-20 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 229
HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS

SUBPART A: GENERAL PROVISIONS

Section
229.100 Abbreviations
229.102 Definitions
229.104 Incorporations by Reference

SUBPART B: APPLICABILITY

Section
229.110 General Applicability
229.112 Exemptions

SUBPART C: COMPLIANCE SCHEDULES

Section
229.115 Compliance Schedules for HMIWIs That Will Continue to Operate
229.116 Compliance Schedules for HMIWIs That Will Shut Down

SUBPART D: CAAPP PERMIT REQUIREMENTS

Section
229.120 CAAPP Permit Requirements

SUBPART E: EMISSIONS~~EMISSION~~ LIMITS

Section
229.125 Emissions~~Emission~~ Limits for Small, Medium, and Large HMIWIs
229.126 Emissions~~Emission~~ Limits for Rural HMIWIs

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: EXCEPTIONS FROM EMISSION LIMITS

Section
229.130 Operation During Periods of Startup, Shutdown, or Malfunction (Repealed)

SUBPART G: METHODS AND PROCEDURES FOR PERFORMANCE TESTING

Section
229.140 Methods and Procedures for Performance Testing

SUBPART H: COMPLIANCE REQUIREMENTS

Section
229.142 Initial Performance Testing and Establishment of Operating Parameters for All HMIWIs
229.144 Subsequent Performance Testing for All HMIWIs
229.146 Annual Testing for Opacity
229.148 Annual Performance Testing for All~~Small, Medium and Large~~ HMIWIs
229.150 Compliance with Operating Parameter Values
229.152 Compliance Requirements for HMIWIs Using CEMS
229.154 Violations by HMIWIs Equipped with a Dry Scrubber Followed by a Fabric Filter
229.156 Violations by HMIWIs Equipped with a Wet Scrubber
229.158 Violations by HMIWIs Equipped with a Dry Scrubber Followed by a Fabric Filter and a Wet Scrubber
229.160 Compliance Requirements for Rural HMIWIs
229.162 Inspection Requirements for All~~Rural~~ HMIWIs
229.164 Optional Performance Testing to Address Actual or Potential Violations

SUBPART I: MONITORING REQUIREMENTS

Section
229.166 Monitoring Requirements for All~~Small, Medium, and Large~~ HMIWIs
229.168 Monitoring Requirements for Rural HMIWIs

SUBPART J: REQUIREMENTS FOR HMIWI OPERATORS

Section
229.170 Operator Training and Qualification Requirements
229.172 Documentation To Be Maintained On-Site for Employees Operating HMIWIs

SUBPART K: WASTE MANAGEMENT PLAN REQUIREMENTS

Section
229.176 Waste Management Plan Requirements for Hospitals Using On-Site Incinerators
229.178 Waste Management Plan Requirements for Hospitals Transporting Waste Off-Site to an HMIWI
229.180 Waste Management Requirements for Commercial HMIWIs~~ Accepting Waste Generated Off-Site~~
229.181 Waste Management Plan Requirements for Other HMIWIs

SUBPART L: RECORDKEEPING AND REPORTING REQUIREMENTS

Section
229.182 Recordkeeping Requirements
229.184 Reporting Requirements

229.APPENDIX A Toxic Equivalency (TEQ) Factors
229.APPENDIX B Operating Parameters to Be Monitored and Minimum Measurement and Recording Frequencies
229.APPENDIX C Reference Test Methods and Procedures for Performance Tests

AUTHORITY: Implementing Sections 10, 39 and 39.5 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/10, 27, 39 and 39.5].

SOURCE: Adopted at 23 Ill. Reg. 6477, effective May 15, 1999; amended in R11-20 at 35 Ill. Reg. 16615, effective September 29, 2011.

SUBPART A: GENERAL PROVISIONS

Section 229.100 Abbreviations

The following abbreviations have been used in this Partpart:

Act	Illinois Environmental Protection Act [415 ILCS 5]
Agency	Illinois Environmental Protection Agency
Board	Illinois Pollution Control Board
Btu	British thermal units
CAAPP	Clean Air Act Permit Program [415 ILCS 5/39.5]

CEMS	Continuous Emissions Monitoring System
CO	carbon monoxide
Cd	cadmium
~~dscf~~	~~dry standard cubic foot~~
~~dscm~~	~~dry standard cubic meter~~
~~ft^3~~	~~cubic feet~~
gr/10^3 dscf	grains per thousand dry standard cubic feet
gr/10^9 dscf	grains per billion dry standard cubic feet
gr/dscf	grains per dry standard cubic foot
HCl	hydrogen chloride
Hg	mercury
HMIWI	hospital/medical/infectious waste incinerator
hr	hour
lb(s)	pound(s)
mg/dscm	milligrams per dry standard cubic meter
~~mg~~	~~milligrams~~
ng/dscm	nanograms per dry standard cubic meter
NO_x	Nitrogen Oxide
Pb	lead
PM	particulate matter
ppmv	parts per million by volume
SO^2	Sulfur Dioxide
TEQ	toxic equivalent~~equivalency~~
USEPA	United States Environmental Protection Agency

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.102 Definitions

The definitions contained in this Section apply only to the provisions of this Part. Unless otherwise defined herein and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall have the meanings specified for those terms in 415 ILCS 5/39.5, 35 Ill. Adm. Code 201.102 or 35 Ill. Adm. Code 211.

"Bag leak detection system" means an instrument that is capable of monitoring PM loadings in the exhaust of a fabric filter in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, lightscattering, light-transmittance, or other effects to monitor relative PM loadings.

"Batch HMIWI" means an HMIWI that is designed in such a way that neither waste charging nor ash removal can occur during combustion.

"Biologicals" means preparations made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing, or treating humans or animals or in research pertaining thereto.

"Body fluids" means liquid emanating or derived from humans and limited to: blood; dialysate; amniotic, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids; semen and vaginal secretions.

"Bypass stack" means an alternative stack used for discharging combustion gases to the atmosphere primarily to avoid severe damage to an air pollution control device or other equipment.

"Charge" means the act of placing waste into an HMIWI for incineration.

"Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.

"Co-fired combustor" means a unit combusting hospital waste or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, of which 10 percent or less of the weight is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted.

"Commercial HMIWI" means an HMIWI that offers incineration services for hospital/medical/ infectious waste generated offsite by firms unrelated to the firm that owns the HMIWI.

"Continuous emission monitoring system" or "CEMS" means a monitoring system for continuously measuring and recording the emissions of a pollutant from an affected facility.

"Continuous HMIWI" means an HMIWI that is designed to allow waste charging and ash removal during combustion.

"Dioxins/furans" means the total emissions of any tetra- through octa-chlorinated dibenzo-para-dioxins and dibenzofurans, as measured by EPA Reference Method 23, incorporated by reference in Section 229.104(d) of this Subpart.

"Dry scrubber" means an add-on air pollution control system that injects dry alkaline sorbent (dry injection) or sprays an alkaline sorbent (spray dryer) to react with and neutralize acid gases in an HMIWI exhaust stream, forming a dry powder material.

"Fabric filter" means an add-on air pollution control system that removes PM and nonvaporous metals emissions by passing flue gas through filter bags.

"Facilities manager" means the individual in charge of purchasing, maintaining, and operating an HMIWI, or the owner's or operator's representative responsible for the management of an HMIWI. Alternative titles may include director of facilities or vice president of support services.

"High air phase" means the stage of the batch operating cycle when the primary chamber reaches and maintains maximum operating temperatures.

"Hospital" means any facility that has an organized medical staff, maintaining at least 6 inpatient beds and where the primary function of the facility is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of 24 hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuing medical supervision.

"Hospital/medical/infectious waste incinerator" or "HMIWI" means any device that combusts any amount of hospital waste or medical/infectious waste.

"Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, or anatomical parts that are intended for interment or cremation.

"HMIWI operator" means any person who operates, controls, or supervises the day-to-day operation of an HMIWI.

"Infectious agent" means any organism that is capable of being communicated by invasion and multiplication in body tissues and is also capable of causing disease or adverse health impacts in humans.

"Intermittent HMIWI" means an HMIWI that is designed to allow waste charging, but not ash removal, during combustion.

"Large HMIWI" means:

An HMIWI whose maximum design waste burning capacity is more than 500 lbs per hour; or

A continuous or intermittent HMIWI whose maximum charge rate is more than 500 lbs per hour; or

A batch HMIWI whose maximum charge rate is more than 4,000 lbs per day.

"Low-level radioactive waste" means waste that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable Federal or State standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 USC 2014(e)(2)).

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or of a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions.

"Maximum charge rate" means:

For continuous and intermittent HMIWI, 110 percent of the lowest 3-hour average charge rate measured during the most recent performance test

demonstrating compliance with all applicable emission limits specified in Subpart E of this Part.

For batch HMIWI, 110 percent of the lowest daily charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limits specified in Subpart E of this Part.

"Maximum design waste burning capacity" means:

For intermittent and continuous HMIWI:

$$\frac{C = P_v X 15{,}000}{8{,}500}$$

Where:

C	=	HMIWI capacity, lb/hr
P_v	=	primary chamber volume, ft^3
15,000	=	primary chamber heat release rate factor, $Btu/ft^3/hr$
8,500	=	standard waste heating value, Btu/lb;

For batch HMIWI:

$$\frac{P_v x 4.5}{8}$$

Where:

C	=	HMIWI capacity, lb/hr
P_v	=	primary chamber volume, ft^3
4.5	=	waste density factor, lb/ft^3
8	=	typical hours of operation of a batch HMIWI, hours.

"Maximum fabric filter inlet temperature" means 110 percent of the lowest 3-hour average temperature at the inlet to the fabric filter (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the applicable dioxin/furan emission limit specified in Subpart E of this Part.

"Maximum flue gas temperature" means 110 percent of the lowest 3-hour average temperature at the outlet from the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the applicable Hg emission limit specified in Subpart E of this Part.

"Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in 40 CFR 261; household waste, as defined in 40 CFR 261.4(b)(1); and domestic sewage materials identified in 40 CFR 261.4(a)(1). For the purposes of this Part, medical/infectious waste includes:

Cultures and stocks of infectious agents and associated biologicals, including: vaccines and cultures intended for use in diagnosing, immunizing, or treating humans or animals; cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; and discarded live and attenuated vaccines;

Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers;

Human blood, any products derived from human blood, or anything that has been in contact with human blood in any form;

Intravenous bags and associated tubing;

Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, and needles with attached tubing;

Culture dishes, regardless of the presence of infectious agents, and culture dishes and devices used to transfer, inoculate, and mix cultures;

Any type of broken or unbroken glassware that has been in contact with

infectious agents;

Animal waste, including contaminated animal carcasses, body parts, bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals;

Isolation wastes, including biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from highly communicable diseases, or isolated animals known to be infected with highly communicable diseases; and

Unused sharps, including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

"Medium HMIWI" means:

An HMIWI whose maximum design waste burning capacity is more than 200 lbs per hour but less than or equal to 500 lbs per hour; or

A continuous or intermittent HMIWI whose maximum charge rate, as set by permit, is more than 200 lbs per hour but less than or equal to 500 lbs per hour; or

A batch HMIWI whose maximum charge rate, as set by permit, is more than 1,600 lbs per day but less than or equal to 4,000 lbs per day.

"Minimum dioxin/furan sorbent flow rate" means 90 percent of the highest 3-hour average dioxin/furan sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the applicable dioxin/furan emission limit specified in Subpart E of this Part.

"Minimum Hg sorbent flow rate" means 90 percent of the highest 3-hour average Hg sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the applicable Hg emission limit specified in Subpart E of this Part.

"Minimum HCl sorbent flow rate" means 90 percent of the highest 3-hour average HCl sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the applicable HCl emission limit specified in Subpart E of this Part.

"Minimum horsepower" or "minimum amperage" means 90 percent of the highest 3-hour average horsepower or amperage to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the applicable emission limits specified in Subpart E of this Part.

"Minimum pressure drop across the wet scrubber" means 90 percent of the highest 3-hour average pressure drop across the wet scrubber PM control device (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the applicable PM emission limit specified in this Subpart E of this Part.

"Minimum reagent flow rate" means 90 percent of the highest 3-hour average reagent flow rate at the inlet to the selective noncatalytic reduction technology (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the applicable NO_x emissions limit specified in Subpart E of this Part.

"Minimum scrubber liquor flow rate" means 90 percent of the highest 3-hour average liquor flow rate at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the applicable emission limits specified in Subpart E of this Part.

"Minimum scrubber liquor pH" means 90 percent of the highest 3-hour average liquor pH at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the applicable HCl emission limit specified in Subpart E of this Part.

"Minimum secondary chamber temperature" means 90 percent of the highest 3-hour average secondary chamber temperature (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating

compliance with the PM, CO, dioxin/furan, and applicable NO_x emissions limits specified in Subpart E of this Part.

"Operating day" means a 24-hour period between 12:00 midnight and the following midnight during which any amount of hospital waste or medical/infectious waste is combusted at any time in an HMIWI.

"Operation" means any period during which waste is combusted in an HMIWI, excluding periods of startup or shutdown.

"Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, tissue, and the bags or containers used to collect and transport the waste material and associated animal bedding, if applicable.

"Primary chamber" means the chamber in an HMIWI that receives waste material, in which the waste is ignited, and from which ash is removed.

"Rural HMIWI" means any HMIWI identified in Section 229.110(a) of this Part, that is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area, as defined in OMB Bulletin No. 93-17, incorporated by reference at Section 229.104(b) of this Part, meets the criteria specified in the definition of "small HMIWI" and burns less than 2,000 lbs per week of hospital waste and medical/infectious waste (except the 2,000 lbs per week limitation does not apply during performance testing).

"Secondary chamber" means that component of an HMIWI that receives combustion gases from the primary chamber and in which the combustion process is completed.

"Shutdown" means the period of time after all waste has been combusted in the primary chamber.

"Small HMIWI" means:

An HMIWI whose maximum design waste burning capacity is less than or equal to 200 lbs per hour; or

A continuous or intermittent HMIWI whose maximum charge rate, as set by permit, is less than or equal to 200 lbs per hour; or

A batch HMIWI whose maximum charge rate, as set by permit, is less than or equal to 1,600 lbs per day.

"Startup" means the period of time between the activation of an HMIWI and the first charge of waste to the unit. For batch HMIWI, startup means the period of time between activation of an HMIWI and ignition of the waste.

"Wet scrubber" means an add-on air pollution control device that utilizes either an alkaline or some other type of scrubbing liquor to collect pollutants and/or neutralize acid gases.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.104 Incorporations by Reference

The following materials are incorporated in this Part by reference. These incorporations by reference do not include any later amendments or editions.

a) "An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities," American Society for Healthcare Environmental Services, 840 North Lake Shore Drive, Chicago, Illinois~~,~~ 60611 (1993).

b) "Revised Statistical Definitions for Metropolitan Areas," OMB Bulletin No. 93-17, Office of Management and Budget, Washington, D.C. (June 30, 1993). Office of Management and Budget, National Technical Information Services, 5285 Port Royal Road, Springfield, VA 22161. (703) 487-4600.

c) 40 CFR 60.8.

d) 40 CFR 60, appendix~~Appendix~~ A, Methods 1, 2, 3, 3A, 5, 9, 10, 10B, 23, 26, 26A, 29.

e) 40 CFR 60, appendices~~Appendices~~ B and F.

f) 40 CFR appendix A, Methods 3B, 6, 6C, 7, 7E, 22 (2010).

g) 40 CFR 60, subpart Ce and Ec (2010).

h) ANSI/ASME PTC19.10-1981, Flue and Gas Analyses [Part 10, Instruments and Apparatus]. American National Standards Institute (ANSI), Attn: Customer Service Department, 25 West 43rd Street, 4th Floor, New York, NY 10036. (212) 642-4980.

i) ASTM D6784-02, Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method). American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, PO Box C70, West Conshohocken, PA 19428-2959. (610) 832-9585.

j) "Fabric Filter Bag Leak Detection Guidance", U.S. Environmental Protection Agency. (EPA-454/R-98-015, September 1997). Superintendent of Documents, U.S. Government Printing Office (GPO), P979050, St. Louis, MO 63197-9000.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

SUBPART B: APPLICABILITY

Section 229.110 General Applicability

a) Except as provided for in subsections (b), (c), (d) and (e) of this Section and Section 229.112 of this Subpart, this Part applies to all HMIWIs for which:

1) Construction commenced either on or before June 20, 1996, or modification was commenced either on or before March 16, 1998; or

2) Construction commenced either after June 20, 1996 but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010.~~This Part applies to all HMIWIs for which construction commenced either on or before June 20, 1996, except as provided for in subsections (b), (c), (d) and (e) of this Section and Section 229.112 of this Subpart.~~

b) An HMIWI otherwise subject to the emission limits in this Part is only subject to the recordkeeping requirements set forth in Section 229.182(b), (f) and (g) of this Part during those periods when it combusts only pathological waste, low-level radioactive waste, or chemotherapeutic waste, provided the owner or operator of the HMIWI notifies the Agency of its intention to operate pursuant to this

operating scenario in its CAAPP application submitted in accordance with either Section 229.115(b)(1), Subpart D of this Part, or Section 39.5 of the Act.

c) An HMIWI that combusts only pathological waste, low-level radioactive waste, or chemotherapeutic waste is subject to only the recordkeeping requirements set forth in Section~~Sections~~ 229.182(c), (f) and (g) of this Part provided that the owner or operator of an HMIWI provides, by December 15, 1999, both the Agency and the USEPA with a written certification of its status as an HMIWI burning only the wastes listed in this subsection.

d) A co-fired combustor is subject only to the recordkeeping requirements set forth in Section~~Sections~~ 229.182(d), (f) and (g) of this Part, provided that the owner or operator of the combustor is subject to a permit condition limiting its fuel feed stream to co-fired combustor status, provides, by December 15, 1999, both the Agency and USEPA with a written certification of its status as a co-fired combustor, including an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels and/or waste combusted at the facility.

e) Any hospital that does not operate an HMIWI but that sends any of its hospital waste or medical/infectious waste to an off-site HMIWI is subject only to the waste management plan provisions set forth at Section 229.178 of this Part.

f) Before January 1, 2014, each owner or operator of an HMIWI as defined in subsection (a)(1) of this Section, subject to the emissions limits under Section 229.125(a) or Section 229.126(a), shall comply with all the applicable provisions of this Part.

g) On and after January 1, 2014, an HMIWI as defined in subsection (a)(1) of this Section is no longer subject to the emissions limits under Section 229.125(a) or Section 229.126(a) of this Part, but is subject to the emissions limits under Section 229.125(c) or Section 229.126(c), and shall comply with all the applicable provisions of this Part.

h) On and after January 1, 2014, each owner and operator of an HMIWI as defined in subsection (a)(2) of this Section is no longer subject to the provisions under New Source Performance Standards for Hospital/Medical/Infectious Waste Incinerators (40 CFR 60, subpart Ec), but is subject to the emissions limits under Section 229.125(c) or Section 229.126(c), and shall comply with all the applicable provisions of this Part.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.112 Exemptions

Notwithstanding other provisions of this Part, the following emission units are exempt from the requirements of this Part:

a) Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act, 42 USC~~U.S.C~~ 6925;

b) Any municipal waste combustor that meets the applicability provisions for municipal waste combustors under Subparts Cb, Ea or Eb of 40 CFR 60;

c) Any pyrolysis unit (i.e., a unit that uses endothermic gasification to treat hospital waste or medical/infectious waste in order to render such waste harmless);

d) Any cement kiln firing hospital waste or medical/infectious waste; or

e) Any HMIWI that meets the applicability provisions for Standards of Performance for Hospital/Medical/Infectious Waste Incinerators under subpart Ec of 40 CFR 60.

~~e) Any HMIWI subject to the *Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996*, contained in Subpart Ec of 40 CFR 60.50c.~~

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

SUBPART C: COMPLIANCE SCHEDULES

Section 229.115 Compliance Schedules for HMIWIs That Will Continue to Operate

a) Before January 1, 2014, each owner or operator of an HMIWI as defined in Section 229.110(a)(1) of this Part, subject to the emissions limits under Section 229.125(a) or Section 229.126(a) of this Part, shall comply with all the applicable provisions of this Part according to the following schedules:

1~~a~~) Except as provided in subsection (a)(2)~~(b)~~ of this Section and unless

another date is specified in the provisions of this Part, all owners or operators of HMIWIs shall be in compliance with all of the provisions of this Part by September 15, 2000.

2~~b~~) Except as provided in subsection (a)(3)~~(c)~~ of this Section, the owner or operator of an HMIWI may have up to September 15, 2002, to come into compliance with this Part. To avail themselves of this extended compliance timeframe, the owner or operator of an HMIWI shall:

A~~1~~) Submit its CAAPP application to the Agency, on or before November 15, 1999, requesting an extended compliance schedule, pursuant to Section 39.5(5)(d) of the Act, [415 ILCS 5/39.5(5)(d)]. This compliance schedule shall include documentation supporting the need for an extension, a final control plan for the HMIWI and incremental steps to be taken toward compliance with this Part that, at a minimum, meet the increments of progress specified in subsection (a)(2)(B)~~(b)(2)~~ of this Section;

B~~2~~) Meet the following increments of progress by the dates indicated:

i~~A~~) Finalize all contracts for the purchase of either pollution control equipment, process modification or control systems by February 29, 2000;

ii~~B~~) Commence the implementation of either the process modifications or the necessary construction or installation of air pollution control devices for the HMIWI by November 30, 2000;

iii~~C~~) Complete either the process modifications or the installation or construction of the new air pollution control equipment by August 31, 2001;

iv~~D~~) Perform initial startup of the retrofitted HMIWI by January 15, 2002; and

v~~E~~) Complete the initial performance test in accordance with Section 229.142 of this Part within 180 days after initial startup.

3~~c~~) Any owner or operator of an HMIWI that fails to demonstrate compliance with this Part by September 15, 2002, shall cease operation of the HMIWI until compliance with the provisions of this Part is achieved.

4~~d~~) Notwithstanding subsection (a)(2)~~(b)~~ of this Section, all owners or operators of HMIWIs shall be in full compliance with all of the HMIWI operator provisions of Subpart J of this Part by September 15, 2000.

b) On and after January 1, 2014, each owner or operator of an HMIWI, as defined in Section 229.110(a)(1) or (a)(2) of this Part, and subject to the emissions limits under Section 229.125(c) of this Part as applicable, or Section 229.126(c) of this Part, shall comply with the applicable provisions of this Part according to the following schedules:

1) Except as provided in subsection (b)(2) of this Section and unless another date is specified in the provisions of this Part, all owners or operators of HMIWIs shall comply with all of the provisions of this Part by January 1, 2014.

2) Except as provided in subsection (b)(4) of this Section, the owner or operator of an HMIWI may have until October 6, 2014 to come into compliance with the emissions limits under Section 229.125(c) or 229.126(c) of this Part. To avail itself of this extended compliance timeframe, the owner or operator of an HMIWI shall:

A) Submit its CAAPP application and construction permit to the Agency, on or before January 1, 2012, requesting an extended compliance schedule, pursuant to Section 39.5(5)(d) of the Act [415 ILCS 5/39.5(5)(d)]. This compliance schedule shall include documentation supporting the need for an extension, a final control plan for the HMIWI and incremental steps to be taken toward compliance with this Part that, at a minimum, meet the increments of progress specified in subsection (b)(2)(B) of this Section;

B) Meet the following increments of progress by the dates indicated:

i) Finalize all contracts for the purchase of pollution control equipment, process modification or control systems by August 1, 2012;

ii) Commence the implementation of either the process modifications or the necessary construction or installation of air pollution control devices for the HMIWI by March 1, 2013;

iii) Complete either the process modifications or the installation or construction of the new air pollution control equipment by September 1, 2013;

iv) Achieve final compliance, which includes incorporating all process changes and/or completing retrofit construction as described in the final control plan, connecting the air pollution control equipment or process changes so that the unit is brought on line, and ensuring that all necessary process changes and air pollution control equipment are operating properly, no later than June 1, 2014;

v) Complete the initial performance test in accordance with Section 229.142 of this Part no later than October 6, 2014;

vi) Submit the results of the initial performance test and revised waste management plan to the Agency no later than 60 days following the initial performance test; and

vii) Submit notification to the Agency within 10 business days after completing (or failing to complete by the applicable date) each of the increments of progress specified in subsection (b)(2)(B) of this Section. The notification must be signed by the owner's or operator's representative responsible for the management of the HMIWI.

3) If a petition for compliance extension is granted, the owner or operator of an HMIWI, as defined in Section 229.110(a)(1) or (a)(2), must continue to comply with the provisions of its current CAAPP permit during the interim.

4) Any owner or operator of an HMIWI that fails to demonstrate compliance with this Part by October 6, 2014 shall cease operation of the HMIWI until compliance with the provisions of this Part is achieved.

5) Notwithstanding subsection (b)(2) of this Section, all owners or operators of HMIWIs shall be in full compliance with all of the HMIWI operator provisions of Subpart J of this Part before January 1, 2014.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.116 Compliance Schedules for HMIWIs That Will Shut Down

All owners or operators of HMIWIs that intend to permanently shut down their HMIWI as a means of complying with this Part shall:

a) Provide the Agency with written notice of their intention to permanently shut down their HMIWI, as follows:

1) On or before November 15, 1999, for an HMIWI as defined in Section 229.110(a)(1) of this Part, subject to the emissions limits under Section 229.125(a) or Section 229.126(a) of this Part;

2) On or before January 1, 2013, except as provided for in Section 229.116(c), for an HMIWI as defined in Section 229.110(a)(1) or (a)(2) of this Part, subject to the emissions limits under Section 229.125(c), as applicable, or Section 229.126(c) of this Part.

b) Take the following affirmative steps to demonstrate that the HMIWI has been rendered permanently inoperable by September 15, 2000, for an HMIWI as defined in Section 229.110(a)(1), or by January 1, 2014 for an HMIWI as defined in Section 229.110(a)(1) or (a)(2) of this Part:

~~a) Provide the Agency with written notice of their intention to permanently shut down their HMIWI on or before November 15, 1999; and~~

~~b) Take the following affirmative steps to demonstrate that the HMIWI has been rendered permanently inoperable by September 15, 2000:~~

1) Weld the primary chamber door shut;

2) Dismantle the HMIWI; or

3) Other means that reasonably demonstrate that the HMIWI is no longer functional.

c) Except as provided in subsection (c)(5) of this Section, owners or operators may have up to October 6, 2014 to shut down their HMIWIs to avoid being subject to compliance with the emissions limits under Section 229.125(c) or 229.126(c). To avail themselves of this extended compliance timeframe, the owner or operator of an HMIWI shall:

1) Submit its application to the Agency by July 1, 2013 requesting an extended compliance schedule, pursuant to Section 39.5(5)(d) of the Act [415 ILCS 5/39.5(5)(d)]. This compliance schedule shall include documentation of the analysis undertaken to support the need for an extension, including an explanation of why the timeframe up to October 6, 2014 is sufficient while the timeframe up to January 1, 2014 is not sufficient, and incremental steps to be taken toward compliance with applicable requirements of this Part.

2) If an onsite alternative waste treatment technology is needed to be installed before the HMIWI is shut down, an application for compliance extension shall include the following elements of increments of progress and completion date for each step of progress:

A) Finalize contract with an alternative waste treatment technology vendor;

B) Initiate onsite construction or installation of alternative waste treatment technology;

C) Complete onsite construction or installation of alternative waste treatment technology; and

D) Take the steps described under subsection (b) of this Section to demonstrate that the HMIWI has been rendered permanently inoperable.

3) If an onsite alternative waste treatment technology is not needed to be installed before an HMIWI is shut down, an application for compliance extension shall include a plan for shut down. The plan for shut down shall include steps described under subsection (b) of this Section to demonstrate that the HMIWI has been rendered permanently inoperable.

4) If a petition for compliance extension is granted, the owner or operator of an HMIWI, as defined in Section 229.110(a)(1) or (a)(2), must continue to comply with the provisions of its current CAAPP permit during the interim.

5) Any owner or operator of an HMIWI that fails to demonstrate compliance with this Part by October 6, 2014 shall cease operation of the HMIWI until compliance with the provisions of this Part is achieved.

6) Notwithstanding subsection (c)(1) of this Section, all owners or operators of HMIWIs shall be in full compliance with all of the HMIWI operator provisions of Subpart J of this Part by January 1, 2014.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

SUBPART D: CAAPP PERMIT REQUIREMENTS

Section 229.120 CAAPP Permit Requirements

a) All HMIWIs subject to the emissions limits in this Part shall operate pursuant to a CAAPP permit, as follows:

1) By September 15, 2000, for an HMIWI as defined in Section 229.110(a)(1) of this Part; and

2) By January 1, 2014, for an HMIWI as defined in Section 229.110(a)(1) or (a)(2) of this Part.

b) For any HMIWI subject to the emission limits in this Part that is first required to obtain a CAAPP permit because it is subject to the emission limits in this Part, the owner or operator shall submit a complete application for a CAAPP permit, as follows:

1) By September 15, 2000, except as provided for in Section 229.115(a)(2)(A) of this Part, for an HMIWI as defined in Section 229.110 (a)(1) of this Part; or

2) By January 1, 2014, except as provided for in Section 229.115(b)(2)(A) of this Part, for an HMIWI as defined in Section 229.110(a)(1) or (a)(2) of this Part.

~~a) All HMIWIs subject to the emissions limits in this Part shall operate pursuant to a CAAPP permit by September 15, 2000.~~

~~b) For any HMIWI subject to the emission limits in this Part that is first required to obtain a CAAPP permit because it is subject to the emission limits in this Part, the owner or operator shall submit a complete application for a CAAPP permit by September 15, 2000, except as provided for in Section 229.115(b)(1) of this Part.~~

c) Upon submittal of a timely and complete CAAPP application, the owner or operator of an HMIWI shall not be in violation of the requirement, specified in subsection (a) of this Section, to have a CAAPP permit, to the extent provided in Section 39.5(5)(h) of the Act [415 ILCS 5/39.5(5)(h)].

d) For any HMIWI that currently has a CAAPP permit, the following conditions apply:

1) If the CAAPP permit has 3 or more years remaining on the permit term, the owner or operator of an HMIWI shall apply for revision to the CAAPP permit to incorporate the applicable requirements of this Part, as follows: ~~on or before November 15, 1999; or~~

A) On or before November 15, 1999, for an HMIWI as defined in Section 229.110(a)(1) of this Part; and

B) On or before January 1, 2013, for an HMIWI as defined in Section 229.110 (a)(1) or (a)(2) of this Part; or

2) If the CAAPP permit has less than 3 years remaining on the permit term, the CAAPP permit shall be revised to incorporate the applicable requirements of this Part, upon renewal of the permit.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

SUBPART E: EMISSIONS~~EMISSION~~ LIMITS

Section 229.125 Emissions~~Emission~~ Limits for Small, Medium, and Large HMIWIs

~~a)~~The emission limits in this Section shall apply at all times to HMIWIs identified in Section 229.110(a)~~ at all times~~, except as provided in Section 229.110(b) of this Part and~~,~~ Section 229.126 of this Subpart~~ and Subpart F of this Part~~.

a) Before January 1, 2014, each owner or operator of a small, medium, or large HMIWI as defined in Section 229.110(a)(1) of this Part shall comply with the following emissions limits:

~~b) The emission limits for small, medium, and large HMIWIs are as follows:~~

Pollutant	**Units** (7% oxygen, dry basis)	**HMIWI EMISSIONS LIMITS**		
		Small	**Medium**	**Large**
Particulate matter	Milligrams per dry standard cubic meter (mg/dscm) (grains per dry standard cubic foot (gr/dscf))	115 (0.05)	69 (0.03)	34 (0.015)
Carbon monoxide	Parts per million by volume (ppmv)	40	40	40
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (ng/dscm) (grains per billion dry standard cubic feet (gr/10^9 dscf)) or ng/dscm TEQ (gr/10^9 dscf)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)

Hydrogen chloride	(ppmv) or percent reduction	100 or 93%	100 or 93%	100 or 93%
Sulfur dioxide	(ppmv)	55	55	55
Nitrogen oxides	(ppmv)	250	250	250
Lead	mg/dscm (grains per thousand dry standard cubic feet (gr/10^3 dscf)) or percent reduction	1.2 (0.52) or 70%	1.2 (0.52) or 70%	1.2 (0.52) or 70%
Cadmium	mg/dscm (gr/10^3 dscf) or percent reduction	0.16 (0.07) or 65%	0.16 (0.07) or 65%	0.16 (0.07) or 65%
Mercury	mg/dscm (gr/10^3 dscf) or percent reduction	0.55 (0.24) or 85%	0.55 (0.24) or 85%	0.55 (0.24) or 85%

		~~**HMIWI EMISSION LIMITS**~~		
~~**Pollutant**~~	~~**Units**~~ ~~(7% oxygen, dry basis)~~	~~**Small**~~	~~**Medium**~~	~~**Large**~~
~~PM~~	~~mg per dscm(grains per dscf)~~	~~115 (0.05)~~	~~69 (0.03)~~	~~34 (0.015)~~
~~CO~~	~~ppmv~~	~~40~~	~~40~~	~~40~~
~~Dioxins/Furans~~	~~Nanograms per dscm, total dioxins/furans (grains per billion dscf), or nanograms per dscm TEQ (grains per billion dscf)~~	~~125 (55) or 2.3 (1.0)~~	~~125 (55) or 2.3 (1.0)~~	~~125 (55) or 2.3 (1.0)~~
~~HCl~~	~~ppmv or percent reduction~~	~~100 or 93%~~	~~100 or 93%~~	~~100 or 93%~~
~~SO_2~~	~~ppmv~~	~~55~~	~~55~~	~~55~~
~~NO_x~~	~~ppmv~~	~~250~~	~~250~~	~~250~~
~~Pb~~	~~mg per dscm~~	~~1.2 (0.52) or~~	~~1.2 (0.52)~~	~~1.2 (0.52) or~~

	~~(grains per thousand dscf) or percent reduction~~	~~70%~~	~~or 70%~~	~~70%~~
~~Cd~~	~~mg per dscm (grains per thousand dscf) or percent reduction~~	~~0.16 (0.07) or 65%~~	~~0.16 (0.07) or 65%~~	~~0.16 (0.07) or 65%~~
~~Hg~~	~~mg per dscm (grains per thousand dscf) or percent reduction~~	~~0.55 (0.24) or 85%~~	~~0.55 (0.24) or 85%~~	~~0.55 (0.24) or 85%~~

b) No owner or operator of a small, medium, or large HMIWI subject to emissions limits listed under subsection (a) of this Section shall cause or allow any emissions that cause greater than 10 percent opacity, as measured on a 6-minute block average, according to Method 9, 40 CFR 60, appendix A, incorporated by reference in Section 229.104(d) of this Part, from any stack used by an HMIWI.

c) On and after January 1, 2014, except as provided for in Section 229.115(b)(3) or Section 229.116(c)(4), as applicable, each owner or operator of a small, medium, or large HMIWI, as defined in Section 229.110(a)(1) and (a)(2) of this Part, shall comply with the following emissions limits, as applicable:

~~c) No owner or operator of a small, medium, or large HMIWI shall cause or allow any emissions that cause greater than 10 percent opacity, as measured on a 6 minute block average, according to Method 9, 40 CFR 60, Appendix A, incorporated by reference at Section 229.104(d) of this Part, from any stack used by an HMIWI.~~

Pollutant	**Units** (7% oxygen, dry basis)	**HMIWI EMISSIONS LIMITS**		
		Small	**Medium**	**Large**
Particulate matter	Milligrams per dry standard cubic meter (mg/dscm) (grains per dry standard cubic foot (gr/dscf))	66 (0.029)	46 (0.020)[a] 34 (0.015)[b]	25 (0.011)

Carbon monoxide	Parts per million by volume (ppmv)	20	5.5	11
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (ng/dscm) (grains per billion dry standard cubic feet (gr/10^9 dscf)) or ng/dscm TEQ (gr/10^9 dscf)	16 (7.0) or 0.013 (0.0057)	0.85 (0.37) or 0.020 (0.0087)	9.3 (4.1) or 0.054 (0.024)
Hydrogen chloride	(ppmv)	44[a] 15[b]	7.7	6.6
Sulfur dioxide	(ppmv)	4.2	4.2	9.0
Nitrogen oxides	(ppmv)	190	190	140
Lead	mg/dscm (grains per thousand dry standard cubic feet (gr/10^3 dscf))	0.31 (0.14)	0.018 (0.0079)	0.036 (0.016)
Cadmium	mg/dscm (gr/10^3 dscf)	0.017 (0.0074)	0.013 (0.0057)	0.0092 (0.0040)
Mercury	mg/dscm (gr/10^3 dscf)	0.014 (0.0061)	0.025 (0.011)	0.018 (0.0079)

[a] Emissions limits for HMIWIs as defined in Section 229.110(a)(1) of this Part.

[b] Emissions limits for HMIWIs as defined in Section 229.110(a)(2) of this Part.

d) No owner or operator of a small, medium, or large HMIWI subject to emission limits listed under subsection (c) of this Section shall cause or allow any emissions that cause greater than 6 percent opacity, as measured on a 6-minute block average, according to Method 9, 40 CFR 60, appendix A, incorporated by reference at Section 229.104(d) of this Part, from any stack used by an HMIWI.

e) On and after the date on which the initial performance test is completed or required to be completed under Section 229.142 of this Part, whichever date comes first, no owner or operator of an HMIWI, as defined in Section 229.110 (a)(1) or (a)(2) of this Part and subject to the emissions limits under subsection (c) of this Section, shall cause to be discharged into the atmosphere visible emissions of combustion ash from an ash conveying system (including conveyor transfer points), enclosures of ash conveying systems, buildings, or other sources in excess of 5 percent of the observation period of 9 minutes per 3-hour period, according to Method 22, 40 CFR 60, appendix A, incorporated by reference in Section 229.104(d) of this Part, except as provided by the following exclusions:

1) Visible emissions discharged inside buildings or enclosures of ash conveying systems; or

2) During maintenance and repair of ash conveying systems. Maintenance and/or repair shall not exceed 10 operating days per calendar quarter unless the owner or operator of an HMIWI makes a request to the Agency in writing for a longer period of time to complete maintenance and/or repair, and the Agency approves the owner's or operator's request in writing.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.126 Emissions~~Emission~~ Limits For Rural HMIWIs

~~a)~~Notwithstanding the emissions~~emission~~ limits set out in Section 229.125 of this Part, any rural HMIWI shall comply with the emissions~~emission~~ limits set out in subsection (a) or (c)~~(b)~~ of this Section. The emissions~~emission~~ limits under this Section shall apply at all times, except as provided for in Section 229.110(b)~~ and Subpart F of this Part~~.

a) Before January 1, 2014, a rural HMIWI as defined in Section 229.110(a)(1) shall comply with the following emissions limits:

~~b) The emission limits for rural HMIWI are as follows:~~

Pollutant	**Units** (7% oxygen, dry basis)	**EMISSION LIMITS**
Particulate matter	mg/dscm (gr/dscf)	197 (0.086)

Carbon monoxide	ppmv	40
Dioxins/furans	ng/dscm total dioxins/furans (gr/10^9 dscf) or ng/dscm TEQ (gr/10^9 dscf)	800 (350) or 15 (6.6)
Hydrogen chloride	ppmv	3100
Sulfur dioxide	ppmv	55
Nitrogen oxides	ppmv	250
Lead	mg/dscm (gr/10^3 dscf)	10 (4.4)
Cadmium	mg/dscm (gr/10^3 dscf)	4 (1.7)
Mercury	mg/dscm (gr/10^3 dscf)	7.5 (3.3)

~~**Pollutant**~~	~~**Units**~~ ~~(7% oxygen, dry basis)~~	~~**EMISSION LIMITS**~~
~~PM~~	~~mg per dscm (grains per dscf~~	~~197 (0.086)~~
~~CO~~	~~ppmv~~	~~40~~
~~Dioxin/Furans~~	~~nanograms per dscm total dioxins/furans (grains per billion dscf), or nanograms per dscm TEQ (grains per billion dscf)~~	~~800 (350) or 15 (6.6)~~
~~HCl~~	~~ppmv~~	~~3100~~
~~SO_2~~	~~ppmv~~	~~55~~
~~NO_x~~	~~ppmv~~	~~250~~
~~Pb~~	~~mg per dscm (grains per thousand dscf)~~	~~10 (4.4)~~
~~Cd~~	~~mg per dscm (grains per thousand dscf)~~	~~4 (1.7)~~
~~Hg~~	~~mg per dscm (grains per thousand dscf)~~	~~7.5 (3.3)~~

b) No owner or operator of a rural HMIWI subject to emissions limits listed under subsection (a) of this Section shall cause or allow any emissions that cause greater than 10 percent opacity, as measured on a 6-minute block average, according to Method 9, 40 CFR 60, appendix A, incorporated by reference at Section 229.104(d) of this Part, from any stack used by an HMIWI.

c) On and after January 1, 2014, except as provided for in Section 229.115(b)(3) or Section 229.116(c)(4), as applicable, a rural HMIWI, as defined in Section 229.110(a)(1) or (a)(2) of this Part, shall comply with the following emissions limits:

Pollutant	**Units** (7% oxygen, dry basis)	**EMISSION LIMITS**
Particulate matter	mg/dscm (gr/dscf)	87 (0.038)
Carbon monoxide	ppmv	20
Dioxins/furans	ng/dscm total dioxins/furans (gr/10^9 dscf) or ng/dscm TEQ (gr/10^9 dscf)	240 (100) or 5.1 (2.2)
Hydrogen chloride	ppmv	810
Sulfur dioxide	ppmv	55
Nitrogen oxides	ppmv	130
Lead	mg/dscm (gr/10^3 dscf)	0.50 (0.22)
Cadmium	mg/dscm (gr/10^3 dscf)	0.11 (0.048)
Mercury	mg/dscm (gr/10^3 dscf)	0.0051 (0.0022)

d) No owner or operator of a rural HMIWI subject to emissions limits listed under subsection (c) of this Section shall cause or allow any emissions that cause greater than 6 percent opacity, as measured on a 6 minute block average, according to Method 9, 40 CFR 60, appendix A, incorporated by reference at Section 229.104(d) of this Part, from any stack used by an HMIWI.

e) On and after the date on which the initial performance test is completed or required to be completed under Section 229.142 of this Part, whichever date comes first, no owner or operator of a rural HMIWI, as defined in Section 229.110(a)(1) or (a)(2) of this Part, subject to the emissions limits under subsection (c) of this Section, shall cause to be discharged into the atmosphere visible emissions of combustion ash from ash conveying system (including conveyor transfer points), enclosures of ash conveying systems, buildings, or other sources in excess of 5 percent of the observation period of 9 minutes per 3-hour period, according to Method 22, 40 CFR 60, appendix A, incorporated by

reference at Section 229.104(d) of this Part, except as provided by the following exclusions:

1) Visible emissions discharged inside buildings or enclosures of ash conveying systems; or

2) During maintenance and repair of ash conveying systems. Maintenance and/or repair shall not exceed 10 operating days per calendar quarter, unless the owner or operator of an HMIWI makes a request to the Agency in writing for a longer period of time to complete maintenance and/or repair, and the Agency approves the owner's or operator's request in writing.

~~e) No owner or operator of a rural HMIWI shall cause or allow any emissions that cause greater than 10 percent opacity, as measured on a 6 minute block average, according to Method 9, 40 CFR 60, Appendix A, incorporated by reference at Section 229.104(d) of this Part, from any stack used by an HMIWI.~~

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

SUBPART F: EXCEPTIONS FROM EMISSION LIMITS

Section 229.130 Operation During Periods of Startup, Shutdown, or Malfunction (Repealed)

~~a) The emission limits specified in Subpart E of this Part do not apply to an HMIWI during periods of startup, shutdown or malfunction, if the requirements provided in subsections (b), (c) and (d) of this Section are met.~~

~~b) No waste shall be charged to an HMIWI during periods of startup, shutdown or malfunction.~~

~~c) The shutdown of any HMIWI shall proceed according to the following requirements:~~

~~1) For continuous HMIWIs, shutdown may commence no less than 2 hours after the last charge to an HMIWI;~~

~~2) For intermittent HMIWIs, shutdown may commence no less than 4 hours~~

~~after the last charge to an HMIWI; and~~

~~3) For batch HMIWIs, shutdown may commence no less than 5 hours after the high air phase of combustion has been completed.~~

~~d) During periods of malfunction, the owner or operator of an HMIWI shall do all of the following:~~

~~1) Take all reasonable steps to ensure that an HMIWI operates within the parameters established for that HMIWI and to minimize excess emissions;~~

~~2) Continue monitoring all applicable parameters; and~~

~~3) Take appropriate corrective actions prior to resuming the charging of any waste to an HMIWI.~~

(Source: Repealed at 35 Ill. Reg. 16615, effective September 29, 2011)

SUBPART H: COMPLIANCE REQUIREMENTS

Section 229.142 Initial Performance Testing and Establishment of Operating Parameters for All HMIWIs

a) Before January 1, 2014, each owner or operator of an HMIWI as defined in Section 229.110(a)(1) of this Part, subject to the emissions limits under Section 229.125(a) or Section 229.126(a) of this Part, shall comply with the following requirements:

~~The owner or operator of an HMIWI subject to the emissions limits under this Part shall comply with the following requirements:~~

1~~a~~) Except as provided in Section 229.115(a)(2)(B)(v)~~229.115(b)(2)(E)~~ of this Part, conduct an initial performance test on their HMIWI by September 15, 2000.~~;~~

2~~b~~) Except as provided in subsection (a)(3)~~(c)~~ of this Section, in the initial performance test, test for all pollutants limited pursuant to Subpart E of this Part.~~;~~

3~~e~~) During the initial performance test, rural HMIWIs are not required to test for HCl, Pb or Cd.~~;~~

4~~d~~) If an HMIWI is equipped with a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and wet scrubber, or a selective noncatalytic reduction system, establish the appropriate maximum and minimum operating parameter values indicated in Appendix B of this Part for the relevant control system during the initial performance test, provided that the performance test demonstrates compliance with the emission limits specified in Section 229.125 of this Part.~~;~~

5~~e~~) If air pollution control equipment other than a dry scrubber followed by a fabric filter, a wet scrubber, a~~or~~ dry scrubber followed by a fabric filter and a wet scrubber, or a selective noncatalytic reduction system is used to comply with the emission limits under Section 229.125 of this Part, the initial performance test may not be conducted until site-specific operating parameters that will be monitored to demonstrate compliance with this Part have been established by the Agency in a construction permit and approved by USEPA.

6~~f~~) For rural HMIWI, establish the maximum charge rate and minimum secondary chamber temperature as site-specific parameters during the initial performance test, provided that the performance test demonstrates that the HMIWI is in compliance with the emission limits specified in Section 229.126 of this Part.

b) On and after January 1, 2014, each owner or operator of an HMIWI, as defined in Section 229.110(a)(1) or (a)(2) of this Part, and subject to the emissions limits under Section 229.125(c) as applicable, or Section 229.126(c) of this Part, shall comply with the following requirements:

1) Except as provided in Section 229.115(b)(2)(B)(v) of this Part, conduct an initial performance test on its HMIWI by January 1, 2014.

2) Except as provided for in subsection (b)(6), in the initial performance test, test for all pollutants to demonstrate compliance with Section 229.125(c) or Section 229.126(c) emissions limits, as applicable, pursuant to Subpart E of this Part.

3) If an HMIWI is equipped with a dry scrubber followed by a fabric filter, a wet scrubber, a dry scrubber followed by a fabric filter and wet scrubber, or a selective noncatalytic reduction system, establish the appropriate maximum and minimum operating parameter values indicated in Appendix B of this Part for the relevant control system during the initial performance test, provided that the performance test demonstrates compliance with the emission limits specified in Section 229.125 or 229.126 of this Part.

4) If an air pollution control device other than a dry scrubber followed by a fabric filter, a wet scrubber, a dry scrubber followed by a fabric filter and a wet scrubber, or a selective noncatalytic reduction system is used to comply with the emission limits under Section 229.125 or Section 229.126 of this Part, the initial performance test may not be conducted until site-specific operating parameters that will be monitored to demonstrate compliance with this Part have been established by the Agency in a construction permit and approved by USEPA.

5) For a rural HMIWI that is not equipped with an air pollution control device, establish the maximum charge rate and minimum secondary chamber temperature as site-specific parameters during the initial performance test, provided that the performance test demonstrates that the HMIWI is in compliance with the emission limits specified in Section 229.126(c) of this Part.

6) The owner or operator of an HMIWI may use results of previous performance tests for initial compliance demonstration with the applicable emissions limits, provided the following conditions are met:

A) The previous emissions tests were conducted using procedures and test methods listed in Section 229.140 of this Part or USEPA-accepted voluntary consensus standards;

B) The test results are certified as representative of current operations; and

C) The previous emissions tests were conducted no earlier than 1996.

7) The owner or operator of an HMIWI that cannot certify and/or whose previous performance test results do not demonstrate compliance with one or more of the revised emission limits must conduct another performance test for those pollutants.

8) The owner or operator of an HMIWI, as defined in Section 229.110(a)(1) or (a)(2) of this Part, and subject to the emissions limits under Section 229.125(c) as applicable, or Section 229.126(c) of this Part, as applicable, shall determine compliance with the visible emissions limit for fugitive emissions from ash handling in Sections 229.125(g) and 229.126(e) by conducting an initial performance test using Method 22, at 40 CFR 60, appendix A, incorporated by reference at Section 229.104(d) of this Part.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.146 Annual Testing for Opacity

Following the date on which the initial performance test is completed, as required by Section 229.142 of this Section, the owners or operators of all HMIWIs shall conduct an annual opacity test, in accordance with Section 229.140 of this Part. The opacity test schedules are as follows:~~, by September 15 of each year.~~

a) By September 15 of each year for an HMIWI as defined in Section 229.110(a)(1) of this Part and subject to the emissions limits under Section 229.125(a) or Section 229.126(a) of this Part; and

b) By January 1 of each year for an HMIWI, as defined in Section 229.110(a)(1) or (a)(2) of this Part and subject to the emissions limits under Section 229.125(c) as applicable, or Section 229.126(c) of this Part.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.148 Annual Performance Testing for All~~Small, Medium and Large~~ HMIWIs

Following the date on which the initial performance test is completed, as required by Section 229.142 of this Part, each owner or operator of an HMIWI, as applicable,~~all owners or operators of small, medium, or large HMIWIs~~ shall conduct an annual performance test~~, by September 15 of each year~~ to determine compliance with the applicable PM, CO and HCl emission limits specified in Section 229.125 or 229.126~~(b)~~ of this Part, using the applicable test procedures and

methods specified in Section 229.140 of this Part.

a) Annual performance test schedules are as follows:

1) Before January 1, 2014, each owner or operator of a small, medium, or large HMIWI as defined in Section 229.110(a)(1), subject to the emissions limits under Section 229.125(a) of this Part, shall complete an annual performance test by September 15 of each year; and

2) On and after January 1, 2014, an owner or operator of a small, rural, medium, or large HMIWI, as defined in Section 229.110(a)(1) or (a)(2), subject to the emissions limits under Section 229.125(c) as applicable, or in Section 229.126(c) of this Part, shall complete an annual performance test by January 1 of each year.

b~~a~~) If all 3 annual performance tests over a 3-year period indicate compliance with the applicable emission limits for PM, CO, or HCl specified in Section 229.125~~(b)~~ of this Part, the owner or operator of an HMIWI may forego a performance test for that pollutant during the next 2 years. If the next performance test conducted every third year indicates compliance with the emission limits for PM, CO, or HCl specified in Section 229.125~~(b)~~ of this Part, the owner or operator of an HMIWI may forego a performance test for that pollutant for an additional 2 years from the date of the previous performance test.

c~~b~~) If any performance test indicates noncompliance with the respective emission limit, the owner or operator of an HMIWI shall conduct a performance test for that pollutant annually until all annual performance tests over a 3-year period indicate compliance with the respective emission limits.

d) The owner or operator of an HMIWI may use any of the following types of continuous emission monitoring systems (CEMS), as provided in Section 229.152 of this Part, to substitute for annual performance tests and parameter monitoring to demonstrate compliance with applicable emissions limits:

1) PM CEMS: replace annual PM testing and opacity testing and monitoring of pressure drop across the wet scrubber, if applicable;

2) CO CEMS: replace annual CO testing and monitoring of minimum secondary chamber temperature;

3) HCl CEMS: replace annual HCl testing and monitoring of minimum HCl sorbent flow rate and minimum scrubber liquor pH.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.150 Compliance with Operating Parameter Values

a) Following the date on which the initial performance test is completed, or is required to be completed under~~as provided in~~ Section 229.142 of this Subpart, whichever date comes first~~Part~~, an HMIWI, using a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits of this Part~~,~~ shall not operate above any of the applicable maximum or below any of the applicable minimum operating parameters~~parameter~~ values specified in Appendix B of this Part. All operating parameters shall be measured as a 3-hour rolling average (calculated each hour as a 3-hour rolling average of the previous 3 operating hours) at all times~~, except during periods of startup, shutdown, and malfunction (calculated each hour as a 3-hour rolling average of the previous 3 operating hours)~~. For batch HMIWIs, the charge rate shall be measured on a per batch basis.

b) Except as provided in Section 229.164 of this Subpart, for an HMIWI equipped with a selective noncatalytic reduction system, operation of the HMIWI above the maximum charge rate, below the minimum secondary chamber temperature, and below the minimum reagent flow rate simultaneously shall constitute a violation of the NO_x emissions limit.

c~~b~~) For HMIWIs using air pollution control equipment other than a dry scrubber followed by a fabric filter, a wet scrubber, or dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits under Section 229.125 or Section 229.126 of this Part, following the date on which the initial performance test is completed, as provided in Section 229.142 of this Part, an HMIWI shall not operate above any applicable maximum or below any applicable minimum operating parameter values established in its CAAPP permit.

d~~c~~) Operating parameter limits do not apply during performance tests.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.152 Compliance Requirements for HMIWIs using CEMS

The owner or operator of an HMIWI may use a CEMS to demonstrate compliance with any of the emission limits under Section 229.125 or Section 229.126~~(b)~~ of this Part, if provided for in its permit. ~~Any HMIWI that is allowed to use a CEMS to demonstrate compliance with the emission limits of this Part shall:~~

a) Any HMIWI that is allowed to use a CEMS to demonstrate compliance with the emission limits of this Part shall:

1~~a~~) Determine compliance with the applicable emission limits using a 12-hour rolling average, calculated each hour as the average of the previous 12 operating hours~~, not including startup, shutdown, or malfunction~~; and

2~~b~~) Operate all CEMS in accordance with the applicable procedures under appendices~~Appendices~~ B and F of 40 CFR 60, incorporated by reference at Section 229.104(e) of this Part.

b) In the case of CEMS for which USEPA has not published performance specifications, the option to use the CEMS takes effect on the date of publication of the performance specifications in the Federal Register or after site-specific operating parameters used to demonstrate compliance with this Part have been established by the Agency in a construction permit and approved by USEPA.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.154 Violations by HMIWIs Equipped with a Dry Scrubber Followed by a Fabric Filter

Except as provided in Section 229.164 of this Subpart, for an HMIWI equipped with a dry scrubber followed by a fabric filter:

a) Simultaneous operation of an HMIWI above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) shall be a violation of the CO emissions~~emission~~ limit;

b) Simultaneous operation of an HMIWI above the maximum fabric filter inlet temperature, above the maximum charge rate, and below the minimum dioxin/furan sorbent flow rate (each measured on a 3-hour rolling average) shall

be a violation of the dioxin/furan emissions~~emission~~ limit;

c) Simultaneous operation of an HMIWI above the maximum charge rate and below the minimum HCl sorbent flow rate (each measured on a 3-hour rolling average) shall be a violation of the HCl emissions~~emission~~ limit;

d) Simultaneous operation of an HMIWI above the maximum charge rate and below the minimum Hg sorbent flow rate (each measured on a 3-hour rolling average) shall be a violation of the Hg emissions~~emission~~ limit;~~ or~~

e) Use of the bypass stack at any time during operation of an HMIWI~~(except during startup, shutdown or malfunction)~~ is a violation of the PM, dioxin/furan, HCl, Pb, Cd and Hg emissions~~emission~~ limits;~~.~~

f) If a CO CEMS is used to determine compliance with a CO emissions limit, operation of the HMIWI above the CO emissions limit as measured by the CO CEMS shall be a violation of the emissions limit;

g) If a bag leak detection system is used, failure to initiate corrective action within one hour after the bag leak detection system alarm, or failure to operate and maintain the fabric filter so that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period, shall be a violation of the PM emissions limit;

h) If a bag leak detection system is used to demonstrate compliance with the opacity limit, failure to initiate corrective action within one hour after the bag leak detection system alarm shall be a violation of the opacity emissions limit;

i) If a CEMS is used to determine compliance with a PM, HCl, Pb, Cd, and/or Hg emissions limit, operation of the HMIWI above the applicable emissions limit as measured by the CEMS shall be a violation of the emissions limit;

j) If a continuous automated sampling system is used, operation of the HMIWI above the dioxin/furan emissions limit as measured by the continuous automated sampling system shall be a violation of the dioxin/furan emissions limit; or

k) If a continuous automated sampling system is used, operation of the HMIWI above the Hg emissions limit as measured by the continuous automated sampling system shall be a violation of the Hg emissions limit.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.156 Violations by HMIWIs Equipped with a Wet Scrubber

Except as provided in Section 229.164 of this Subpart, for an HMIWI equipped with a wet scrubber:

a) Simultaneous operation of an HMIWI above the maximum charge rate and below the minimum pressure drop across the wet scrubber or below the minimum horsepower or amperage to the system (each measured on a 3-hour rolling average) is a violation of the PM emissions~~emission~~ limit;

b) Simultaneous operation of an HMIWI above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) is a violation of the CO emissions~~emission~~ limit;

c) Simultaneous operation of an HMIWI above the maximum charge rate, below the minimum secondary chamber temperature and below the minimum scrubber liquor flow rate (each measured on a 3-hour rolling average) is a violation of the dioxin/furan emissions~~emission~~ limit;

d) Simultaneous operation of an HMIWI above the maximum charge rate and below the minimum scrubber liquor pH (each measured on a 3-hour rolling average) is a violation of the HCl emissions~~emission~~ limit;

e) Simultaneous operation of an HMIWI above the maximum flue gas temperature and above the maximum charge rate (each measured on a 3-hour rolling average) is a violation of the Hg emissions~~emission~~ limit;~~ or~~

f) Use of the bypass stack at any time during operation of an HMIWI~~(except during startup, shutdown, or malfunction)~~ is a violation of the PM, dioxin/furan, HCl, Pb, Cd and Hg emissions~~emission~~ limits;~~.~~

g) If a CO CEMS is used to determine compliance with a CO emissions limit, operation of the HMIWI above the CO emissions limit as measured by the CO CEMS shall be a violation of the emissions limit;

h) If a CEMS is used to determine compliance with a PM, HCl, Pb, Cd, and/or Hg emissions limit, operation of the HMIWI above the applicable emissions limit as measured by the CEMS shall be a violation of the emissions limit;

i) If a continuous automated sampling system is used, operation of the HMIWI above the dioxin/furan emissions limit as measured by the continuous automated sampling system shall be a violation of the dioxin/furan emissions limit; or

j) If a continuous automated sampling system is used, operation of the HMIWI above the Hg emissions limit as measured by the continuous automated sampling system shall be a violation of the Hg emissions limit.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.158 Violations by HMIWIs Equipped with a Dry Scrubber Followed by a Fabric Filter and a Wet Scrubber

Except as provided in Section 229.164 of this Subpart, for an HMIWI equipped with a dry scrubber followed by a fabric filter and a wet scrubber:

a) Simultaneous operation of an HMIWI above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) is a violation of the CO emissions~~emission~~ limit;

b) Simultaneous operation of an HMIWI above the maximum fabric filter inlet temperature, above the maximum charge rate and below the minimum dioxin/furan sorbent flow rate (each measured on a 3-hour rolling average) is a violation of the dioxin/furan emissions~~emission~~ limit;

c) Simultaneous operation of an HMIWI above the maximum charge rate and below the minimum scrubber liquor pH (each measured on a 3-hour rolling average) is a violation of the HCl emissions~~emission~~ limit;

d) Simultaneous operation of an HMIWI above the maximum charge rate and below the minimum Hg sorbent flow rate (each measured on a 3-hour rolling average) is a violation of the Hg emissions~~emission~~ limit; or

e) Use of the bypass stack at any time during operation of an HMIWI~~(except during startup, shutdown, or malfunction)~~ is a violation of the PM, dioxin/furan, HCl, Pb,

Cd and Hg emissions~~emission~~ limits;~~.~~

f) If CO CEMS is used to determine compliance with a CO emissions limit, operation of the HMIWI above the CO emissions limit as measured by the CO CEMS shall be a violation of the emissions limit;

g) If a bag leak detection system is used, failure to initiate corrective action within one hour after the bag leak detection system alarm, or failure to operate and maintain the fabric filter so that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period, shall be a violation of the PM emissions limit;

h) If a bag leak detection system is used to demonstrate compliance with the opacity limit, failure to initiate corrective action within one hour after the bag leak detection system alarm shall be a violation of the opacity emissions limit;

i) If CEMS is used to determine compliance with a PM, HCl, Pb, Cd, and/or Hg emissions limit, operation of the HMIWI above the applicable emissions limit as measured by the CEMS shall be a violation of the emissions limit;

j) If a continuous automated sampling system is used, operation of the HMIWI above the dioxin/furan emissions limit as measured by the continuous automated sampling system shall be a violation of the dioxin/furan emissions limit; or

k) If a continuous automated sampling system is used, operation of the HMIWI above the Hg emissions limit as measured by the continuous automated sampling system shall be a violation of the Hg emissions limit.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.160 Compliance Requirements for Rural HMIWIs

a) Prior to January 1, 2014, the requirements set forth in subsections (c) through (e) of this Section shall apply to all rural HMIWIs subject to the emissions limits under Section 229.126 of this Part.

b) On and after January 1, 2014, the requirements set forth in subsections (c) through (e) of this Section shall apply to all rural HMIWIs that are not equipped with an

air pollution control device and that are subject to the emissions limits under Section 229.126 of this Part.

c~~a~~) Following the date on which the initial performance test is completed or is required to be completed under Section 229.142 of this Subpart, whichever date comes first, the owners or operators of rural HMIWI shall not operate their HMIWI either above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages~~at all times, except during periods of startup or shutdown~~ (calculated each hour as ~~a 3-hour rolling~~ the average of the previous 3 operating hours) at all times.

d) Operating parameter limits do not apply during performance tests.

c~~b~~) Except as provided in Section 229.164 of this Subpart, the simultaneous operation of a rural HMIWI above the maximum charge rate and below the minimum secondary chamber temperature (calculated as a 3-hour rolling average) shall constitute a violation of the PM, CO and dioxin/furan emission limits.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.162 Inspection Requirements for All~~Rural~~ HMIWIs

a) Before January 1, 2014, each owner or operator of a rural HMIWI subject to the emission limits under Section 229.126 of this Part shall inspect the HMIWI according to the following schedule:~~Each owner or operator of a rural HMIWI shall inspect the HMIWI according to the following schedule:~~

1) An initial inspection shall be conducted by September 15, 2000; and

2) An annual inspection shall be conducted by September 15 of each year thereafter.

b) Each equipment inspection shall be conducted to ensure the proper operation of the ~~rural~~ HMIWI and, at a minimum, shall consist of the following steps:

1) An inspection of all burners, pilot assemblies, and pilot sensing devices, cleaning the pilot flame sensor, as necessary;

2) An inspection of the primary and secondary chamber combustion air flow,

adjusting, as necessary;

3) An inspection of the hinges and door latches, lubricating, as necessary;

4) An inspection of dampers, fans, and blowers;

5) An inspection of the HMIWI door and door gaskets;

6) An inspection of all HMIWI motors;

7) An inspection of the primary chamber refractory lining, cleaning, repairing or replacing the lining, as necessary;

8) An inspection of the incinerator shell for corrosion or hot spots;

9) An inspection of the secondary/tertiary chamber and stack, cleaning as necessary;

10) Where applicable, an inspection of the mechanical loader, including limit switches;

11) A visual inspection of the waste bed (grates), repairing or sealing, as necessary;

12) Where applicable, an inspection of air pollution control devices to ensure their proper operation;

13) Where applicable, an inspection of the waste heat boiler systems;

14) An inspection of all bypass stack components;

15) Calibration of thermocouples, sorbent feed systems and monitoring equipment; and

16) A general inspection of all equipment to ensure that it is maintained in good operating condition.

c) The owner or operator of an~~a rural~~ HMIWI shall document that, during the burn cycle immediately following the inspection required by this Section, the HMIWI

is operating properly and make any necessary adjustments.

d) All maintenance, adjustments, or repairs identified during the equipment inspection required under this Section shall be completed within 10 days after the inspection. The owner or operator of an HMIWI may have a longer period of time in which to complete any repairs identified as a result of the inspection required by this Section, provided that it makes this request to the Agency in writing, and the Agency approves the owner or operator of an HMIWI's request in writing.

e) The owner or operator of a small, rural, medium, or large HMIWI subject to the emission limits under Section 229.125(c) as applicable, or Section 229.126 of this Part, shall inspect the HMIWI as outlined in subsection (b) of this Section, according to the following schedule:

1) An initial equipment inspection shall be conducted by January 1, 2014; and

2) An annual equipment inspection shall be conducted by January 1 of each year thereafter.

f) The owner or operator of an HMIWI subject to the emissions limits under Section 229.125(c) as applicable, or Section 229.126(c) of this Part, shall inspect the air pollution control devices, according to the following schedule:

1) An initial air pollution control device inspection shall be conducted by January 1, 2014; and

2) An annual air pollution control device inspection shall be conducted by January 1 of each year thereafter.

g) Each air pollution control device inspection, as applicable, shall be conducted to ensure the proper operation of the device and, at a minimum, shall consist of the following steps:

1) Where applicable, an inspection of the thermocouples, sorbent feed systems, and any other monitoring equipment, adjusting applicable calibrations, as necessary; and

2) A general inspection of the equipment to ensure that it is maintained in good operating condition.

h) All maintenance, adjustments, or repairs identified during an air pollution control device inspection required under this Section shall be completed within 10 days after the inspection. The owner or operator of an HMIWI may have a longer period of time in which to complete any repairs identified as a result of the inspection required by this Section, provided that it makes this request to the Agency in writing and the Agency approves the request in writing.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

SUBPART I: MONITORING REQUIREMENTS

Section 229.166 Monitoring Requirements for All~~Small, Medium, and Large~~ HMIWIs

a) Each owner or operator of an HMIWI subject to the emissions limits under Section 229.125(c) as applicable, or Section 229.126(c) of this Part, shall comply with requirements of this Section according to the following schedule:

1) Before January 1, 2014, for a small, medium or large HMIWI;

2) On and after January 1, 2014, except as provided for in Section 229.115(b)(3) or Section 229.116(c)(4), for a small, medium or large HMIWI and a rural HMIWI that is equipped with an air pollution control device.

b~~a~~) Once the initial performance test required by Section 229.142 of this Part has been performed, and the site-specific minimum and maximum operating parameter values have been established, the owner or operator of an~~a small, medium or large~~ HMIWI, as applicable, shall continuously monitor those parameters.

c~~b~~) The owner or operator of an~~a small, medium or large~~ HMIWI, as applicable, shall comply with the following monitoring requirements:

1) Install, calibrate according to manufacturer's specifications, maintain, and operate devices or establish methods for monitoring the applicable maximum and minimum operating parameters specified in Appendix B of

this Part (unless CEMS are used as a substitute for certain parameters as specified) so~~such~~ that these devices or methods measure and record values for these operating parameters at the frequencies indicated in Appendix B of this Part at all times~~, except during periods of startup and shutdown~~;

2) Install, calibrate according to manufacturer's specifications, maintain, and operate a device or establish a method for identifying the use of the bypass stack, including date, time, and duration of use;

3) If control equipment other than a dry scrubber followed by a fabric filter, a wet scrubber, ~~or~~ a dry scrubber followed by a fabric filter and a wet scrubber, or a selective noncatalytic reduction system is used to comply with the applicable emissions~~emission~~ limits under Section 229.125(c)~~229.125(b)~~ as applicable, or Section 229.126(c) of this Part, install, calibrate according to manufacturer's specifications, maintain, and operate the equipment necessary to monitor the site-specific operating parameters developed and approved pursuant to Section 229.142(a)(5) or (b)(5)~~Section 229.142(e)~~ of this Part; and

4) Record monitoring data at all times during HMIWI operation, except during the periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be recorded for 75 percent of the operating hours per day ~~and~~ for 90 percent of the operating days per calendar quarter that an HMIWI is combusting hospital waste or medical/infectious waste.

d) If an HMIWI is equipped with an air pollution control device that includes a fabric filter and a PM CEMS is not used to demonstrate compliance, the owner or operator of the HMIWI may use a bag leak detection system to determine compliance with the PM emissions limit. The owner or operator shall meet the following requirements for each bag leak detection system installed:

1) Each triboelectric bag leak detection system may be installed, calibrated, operated, and maintained according to the "Fabric Filter Bag Leak Detection Guidance," as incorporated by reference in Section 229.104;

2) The bag leak detection system shall be certified by the manufacturer as being capable of detecting PM emissions at concentrations of 10

milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less;

3) The bag leak detection system sensor shall provide an output of relative PM loadings;

4) The bag leak detection system shall be equipped with a device to continuously record the output signal from the sensor;

5) The bag leak detection system shall be equipped with an audible alarm system that sounds automatically when an increase in relative PM emissions over a preset level is detected. The alarm shall be located where it is easily heard by plant operating personnel;

6) For positive pressure fabric filter systems, a bag leak detector shall be installed in each baghouse compartment or cell;

7) For negative pressure or induced air fabric filters, a bag leak detector shall be installed downstream of the fabric filter;

8) If multiple bag leak detectors are required, the bag leak detection system's instrumentation and alarm may be shared among detectors;

9) The baseline output shall be established by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time according to section 5.0 of the "Fabric Filter Bag Leak Detection Guidance," as incorporated by reference in Section 229.104;

10) Following initial adjustment of the system, the sensitivity or range, averaging period, alarm set points, or alarm delay time may not be adjusted. Increasing the sensitivity by more than 100 percent or decreasing by more than 50 percent over a 365-day period is a violation, unless the adjustment follows a complete fabric filter inspection that demonstrates that the fabric filter is in good operating condition. Each adjustment shall be recorded;

11) Records of the results of each inspection, calibration, and validation check shall be maintained; and

12) The fabric filter must be operated and maintained so that the bag leak detection system alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period; however, corrective action must be initiated within 1 hour after the alarm.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.168 Monitoring Requirements for Rural HMIWIs

a) Each owner or operator of a rural HMIWI subject to the emissions limits under Section 229.126 of this Part shall comply with requirements of this Section according to the following schedule:

1) Before January 1, 2014, for a rural HMIWI; and

2) On and after January 1, 2014, except as provided for in Section 229.115(b)(3) or Section 229.116(c)(4), for a rural HMIWI that is not equipped with an air pollution control device.

b) The owner or operator of each rural HMIWI shall comply with the following monitoring requirements:

1~~a~~) Install, calibrate according to manufacturer's specifications, maintain and operate a device measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute of operation;

2~~b~~) Install, calibrate according to manufacturer's specifications, maintain, and operate a device that automatically measures and records the date, time, and weight of each charge fed into an HMIWI; and

3~~c~~) Record monitoring data at all times during HMIWI operation, except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be recorded for 75 percent of the operating hours per day ~~and~~ for 90 percent of the operating hours per calendar quarter that an HMIWI is combusting hospital waste or medical/infectious waste.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

SUBPART K: WASTE MANAGEMENT PLAN REQUIREMENTS

Section 229.180 Waste Management Requirements for Commercial HMIWIs ~~Accepting Waste Generated Off-Site~~

a) The owner or operator of any commercial HMIWI that accepts hospital waste or medical/infectious waste generated off-site shall:

1) Provide hospital, medical or infectious waste customers with written information at least once a year concerning the availability of waste management practices for reducing the volume and toxicity of waste to be incinerated; ~~and~~

2) Conduct training and education programs in waste segregation for each of the company's waste generator customers;

3) Ensure that each waste generator customer prepares its own waste management plan that includes, at a minimum, the following elements:

A) Segregation of recyclable wastes such as paper products, glass, batteries and metals;

B) Segregation of non-recyclable wastes such as polyvinyl chloride plastics, pharmaceutical waste, and mercury-containing waste; and

C) Purchasing recycled or recyclable products;

4~~2~~) Submit a waste management plan to the Agency, in accordance with Section 229.184(b) of this Part, that outlines the efforts that will be undertaken to implement the requirements~~distribute information as~~ specified in subsections~~subsection~~ (a)(1) through (a)(3) of this Section ~~and identifies the information that will be distributed~~.

b) Paper or electronic copies of the materials disseminated under this Section shall be made available to the Agency upon written request.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

SUBPART L: RECORDKEEPING AND REPORTING REQUIREMENTS

Section 229.182 Recordkeeping Requirements

a) The owner or operator of an HMIWI subject to the emissions~~emission~~ limits under Subpart E of this Part shall maintain records of the following information:

1) The calendar date of each record;

2) The following data, where applicable:

A) Concentrations of all applicable pollutants listed in Section 229.125(a) or (c), or in Section 229.126(a) or (c) of this Part (as determined by the CEMS, if applicable), and any measurements of opacity as required under Section 229.125(b), (d), or (f) or Section 229.126(b) or (d);~~Concentrations of all applicable pollutants listed in Section 229.125(b) or 229.126(b) of this Part (as determined by the CEMS, if applicable) and any measurements of opacity as required under Section 229.125(c) or 229.126(c);~~

B) HMIWI charge dates, times and weights, and hourly charge rates;

C) If a fabric filter is used, the fabric filter inlet temperatures during each minute of operation;

D) The amount and type of dioxin/furan sorbent used during each hour of operation;

E) The amount and type of Hg sorbent used during each hour of operation;

F) The amount and type of HCl sorbent used during each hour of operation;

G) If a selective noncatalytic reduction system is used to comply, the amount and type of NO_x reagent used during each hour of operation;

H) If a selective noncatalytic reduction system is used to comply, the minimum secondary chamber temperature recorded during each minute of operation;

I~~G~~) The secondary chamber temperatures recorded during each minute of operation;

J~~H~~) The liquor flow rate to the wet scrubber inlet during each minute of operation;

K~~I~~) The horsepower or amperage to the wet scrubber during each minute of operation;

L~~J~~) Any pressure drop across the wet scrubber system during each minute of operation;

M~~K~~) The temperature at the outlet from the wet scrubber during each minute of operation;

N~~L~~) The pH at the inlet to the wet scrubber during each minute of operation;

O~~M~~) Identification of any use of the bypass stack, including dates, times, and the duration of such use;~~ and~~

P~~N~~) For sources complying with Section 229.166(c)~~(b)(3)~~ of this Part, all operating parameter data collected~~monitored~~; and

Q) If a bag leak detection system is used, maintain records of the system alarm, the time of the alarm, the time corrective action was initiated and completed, and a brief description of the cause of the alarm and the corrective action taken, as applicable;

3) Identification of any calendar days for which data on emissions~~emission~~ rates or operating parameters specified under subsection (a)(2) of this Section have not been obtained, with an identification of the emissions~~emission~~ rates or operating parameters not measured, reasons for not obtaining data, and a description of the corrective actions taken;

4) Identification of any malfunctions, including the calendar date, the time and duration, and a description of the malfunction and of the corrective action taken to remedy it;

5) Identification of calendar days for which data on emissions~~emission~~ rates or operating parameters specified under subsection (a)(2) of this Section exceeded the applicable limits, with a description of the exceedences, reasons for such exceedences, and a description of the corrective actions taken;

6) The results of the initial, annual, and any other subsequent performance tests conducted to determine compliance with the applicable emissions limits and/or to establish or re-establish operating parameters, as applicable, and a description, including sample calculations, of how the operating parameters were established or re-established, if applicable;

7) Records of calibration of any monitoring devices as required under Sections 229.166(c)~~(b)~~(1), (2) and (3) and 229.168~~(a) and~~ (b)(1) and (2) of this Part; and

8) Identification of the names of all HMIWI operators who have met the criteria for qualification under Section 229.170 of this Part, including:

A) Documentation of training and the dates of the training; and

B) The date of the initial review and all subsequent annual reviews of the information specified in Section 229.172(a) of this Part, as required by Section 229.172(b) of this Part.

b) The owner or operator of an HMIWI claiming an exemption from the emissions~~emission~~ limits in this Part pursuant to Section 229.110(b) of this Part shall keep contemporaneous records identifying each period of time when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned, including the calendar date and duration of such periods.

c) The owner or operator of an HMIWI claiming an exemption pursuant to Section 229.110(c) of this Part shall keep records on a calendar quarter basis demonstrating that only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned.

d) The owner or operator of a co-fired combustor claiming an exemption from the emissions~~emission~~ limits under Section 229.110(d) of this Part shall maintain records on a calendar quarter basis of the relative weight of hospital waste and/or medical/infectious waste, and of all other fuels or waste combusted.

e) The owner or operator of each HMIWI subject to the emissions limits under Section 229.125(c) or Section 229.126 of this Part shall maintain records of the annual equipment inspection required under Section 229.162 of this Part.

f) The owner or operator of each HMIWI subject to the emissions limits under Section 229.125(c) or 229.126(c) of this Part shall maintain records of the annual air pollution control device inspection required under Section 229.162 of this Part.

~~e) The owner or operator of each rural HMIWI shall maintain records of the annual equipment inspections required under Section 229.162 of this Part, any required maintenance, and any repairs not completed within 10 days after an inspection or the time frame established by the Agency.~~

g) If a bag leak detection system is used, the owner or operator shall maintain records of the system alarm, the time of the alarm, the time corrective action was initiated and completed, a brief description of the cause of the alarm and the corrective action taken, as applicable.

h) The owner or operator of each HMIWI, when applicable, shall maintain records of any required maintenance, adjustments, or repairs identified during an inspection required under Section 229.162 of this Part not completed within 10 days after the inspection or the timeframe approved in writing by the Agency.

i~~f~~) All records required under this Section shall be maintained onsite for a period of 5 years, in either paper copy or electronic format, unless an alternative format has been approved by the Agency in a permit condition.

j~~g~~) All records required to be maintained pursuant to this Section shall be made available to the Agency upon request.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.184 Reporting Requirements

a) The facilities manager and the responsible official for the affected source shall certify each report required under this Section.

b) The owner or operator of an HMIWI shall submit to the Agency the results of any performance test conducted on the HMIWI within 60 days after conducting the performance test. The information submitted with the initial performance test required by Section 229.142 of this Part shall include:

1) Before January 1, 2014, except as provided for in Section 229.115(b)(3) or Section 229.116(c)(4), as applicable, the test data and values for the site-specific operating parameters established pursuant to Section 229.142(a)(4), (5) or (6), as applicable, and a description, including sample calculations, of how the operating parameters were established during the initial performance test for an HMIWI subject to the emissions limits under Section 229.125(a) or 229.126(a) of this Part;~~The test data and values for the site-specific operating parameters established for an HMIWI pursuant to either Section 229.142(d), (e) or (f) of this Part, as applicable; and~~

2) On and after January 1, 2014, the test data and values for the site-specific operating parameters established pursuant to Section 229.142(b)(3), (4) or (5), as applicable, and a description, including sample calculations, of how the operating parameters were established during the initial performance test for an HMIWI subject to the emissions limits under Section 229.125(c) or Section 229.126(c) of this Part;

3) If a bag leak detection system is used, analysis and supporting documentation demonstrating conformance with guidance and specifications for bag leak detection systems in Section 229.166(d)(1); and

4) A copy of the waste management plan required under Subpart K of this Part.

c) All owners or operators of HMIWIs shall submit the information specified under this subsection (c) to the Agency, as follows:~~All owners or operators of HMIWIs shall submit the information specified under this subsection (c) to the Agency by September 15, 2001 and by September 15 of each year thereafter. Once an HMIWI is issued a CAAPP permit, the owner or operator of an HMIWI shall~~

~~submit these reports semi-annually, in accordance with subsection (d) of this Section. The annual report shall include the following information:~~

1) By September 15, 2001, and by September 15 of each year thereafter, for an HMIWI subject to the emissions limits under Section 229.125(a) or 229.126(a) of this Part;

2) By January 1, 2014, and by January 1 of each year thereafter, except as provided for in Section 229.115(b)(3) or Section 229.116(c)(4), as applicable, for an HMIWI subject to the emissions limits under Section 229.125(c) or (e) or Section 229.126(c) of this Part; and

3) The annual report required under subsection (c)(1) or (2) of this Section shall include the following information:

A~~1~~) Before January 1, 2014, the values for site-specific operating parameters established pursuant to Section 229.142(a)(4), (5) or (6) of this Part, as applicable;~~The values for site-specific operating parameters established pursuant to either Section 229.142(d), (e) or (f) of this Part;~~

B) On and after January 1, 2014, except as provided for in Section 229.115(b)(3) or Section 229.116(c)(4), as applicable, the values for site-specific operating parameters established pursuant to Section 229.142(b)(3), (4) or (5) of this Part, as applicable;

C~~2~~) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter, recorded for the calendar year being reported pursuant to Section 229.142(a)(4), (5) or (6), or Section 229.142(b)(3), (4) or (5) of this Part, as applicable; ~~and for the calendar year preceding the year being reported;~~

D) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded pursuant to Section 229.142(a)(4), (5) or (6) or Section 229.142(b)(3), (4) or (5) of this Part, as applicable, for the calendar year preceding the year being reported, in order to

provide the Agency with a summary of the performance of the affected facility over a 2-year period;

E~~3~~) Any information recorded pursuant to Section 229.182(a)(3) through (5) of this Subpart for the calendar year being reported and for the calendar year preceding the year being reported;

F~~4~~) If no exceedences or malfunctions were recorded under Section 229.182(a)(3) through (a)(5) of this Subpart for the calendar year being reported, a statement that no exceedences occurred during the reporting period; and

G~~5~~) Any use of the bypass stack, the duration of use, the reason for malfunction, and the corrective actions taken.

d) Once an HMIWI is issued a CAAPP permit, the owner or operator of the HMIWI shall submit the reports required under subsection (c) of this Section semiannually. The semiannual reports must be submitted within 60 days following the end of the reporting period. The first semiannual reporting period ends on June 30 of each year and the second semiannual reporting period ends on December 31 of each year.~~Once the owner or operator of an HMIWI is required to submit semiannual reports, these reports must be submitted within 60 days following the end of the reporting period. The first semiannual reporting period ends on March 15 of each year and the second semiannual reporting period ends on September 15 of each year.~~

e) The owner or operator of each rural HMIWI subject to the emissions~~emission~~ limits under Section 229.126(b) of this Part, shall submit an annual report containing all information listed in subsections (b) and (c) of this Section by no later than 60 days following the year in which the data was collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report. Once the unit is subject to permitting requirements under the CAAPP, the owner or operator shall submit these reports semiannually in accordance with the schedule specified in subsection (d) of this Section.

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.APPENDIX B Operating Parameters to be Monitored and Minimum Measurement and Recording Frequencies

An "X" in any box in this matrix means that measurement of that parameter is required.

MINIMUM FREQUENCY			CONTROL SYSTEM			
Operating Parameters	Data Measurement	Data Recording	Dry Scrubber Followed by Fabric Filter	Wet Scrubber	Dry Scrubber Followed by Fabric Filter and Wet Scrubber	Selective Noncatalytic Reduction System
Maximum Charge Rate[1]	Continuous	Once per hour	X	X	X	X
Maximum Fabric Filter Inlet Temperature	Continuous	Once per minute	X		X	
Maximum Flue Gas Temperature	Continuous	Once per minute	X	X		
Minimum Secondary Chamber Temperature	Continuous	Once per minute	X	X	X	X
Minimum Dioxin/Furan Sorbent Flow Rate	Hourly	Once per hour	X		X	
Minimum HCl Sorbent Flow Rate	Hourly	Once per hour	X		X	
Minimum Reagent Flow Rate	Hourly	Once per hour				X
Minimum Hg Sorbent	Hourly	Once per hour	X		X	

Flow Rate						
Minimum Pressure Drop Across the Wet Scrubber or Minimum Horsepower or Amperage to Wet Scrubber	Continuous	Once per minute		X	X	
Minimum Scrubber Liquor Flow Rate	Continuous	Once per hour		X	X	
Minimum Scrubber Liquor pH	Continuous	Once per hour		X	X	

[1]For batch HMIWIs, record the charge per batch.

~~MINIMUM FREQUENCY~~			~~CONTROL SYSTEM~~		
~~**Operating Parameters**~~	~~**Data Measurement**~~	~~**Data Recording**~~	~~**Dry Scrubber Followed by Fabric Filter**~~	~~**Wet Scrubber**~~	~~**Dry Scrubber Followed by Fabric Filter and Wet Scrubber**~~
~~Maximum[1] Charge Rate~~	~~Continuous~~	~~Once per hour~~	~~X~~	~~X~~	~~X~~
~~Maximum Fabric Filter Inlet Temperature~~	~~Continuous~~	~~Once per minute~~	~~X~~		~~X~~
~~Maximum flue gas temperature~~	~~Continuous~~	~~Once per minute~~	~~X~~	~~X~~	
~~Minimum secondary~~	~~Continuous~~	~~Once per minute~~	~~X~~	~~X~~	~~X~~

~~chamber temperature~~					
~~Minimum Dioxin/Furan Sorbent Flow Rate~~	~~Hourly~~	~~Once per hour~~	~~X~~		~~X~~
~~Minimum HCl Sorbent Flow Rate~~	~~Hourly~~	~~Once per hour~~	~~X~~		~~X~~
~~Minimum Hg Sorbent Flow Rate~~	~~Hourly~~	~~Once per hour~~	~~X~~		~~X~~
~~Minimum Pressure Drop Across the Wet Scrubber or Minimum Horsepower or Amperage to Wet Scrubber~~	~~Continuous~~	~~Once per minute~~		~~X~~	~~X~~
~~Minimum Scrubber Liquor Flow Rate~~	~~Continuous~~	~~Once per minute~~		~~X~~	~~X~~
~~Minimum Scrubber Liquor pH~~	~~Continuous~~	~~Once per minute~~		~~X~~	~~X~~

~~[1]For batch HMIWIs, record the charge per batch.~~

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

Section 229.APPENDIX C Reference Test Methods and Procedures for Performance Tests

The following test methods and procedures shall be used as specified in Section 229.140(e) of this Part, when conducting any performance test for the purpose of demonstrating compliance with the emissions~~emission~~ limits established under this Part.

a) All performance tests shall consist of a minimum of 3 test runs conducted under representative operating conditions. The minimum sample time of 1 hour per test run shall be used unless otherwise indicated. In order to demonstrate compliance with the emissions~~emission~~ limits set forth in Subpart E of this Part, the arithmetic average of all 3 performance test runs shall be used.

b) Method 1, at 40 CFR 60, incorporated by reference at Section 229.104(d) of this Part, shall be used to select the sampling location and number of traverse points.

c) Method 2, at 40 CFR 60, shall be used to determine average gas density, as well as to measure gas velocity.

d) Method 3, 3A, or 3B, at 40 CFR 60, shall be used for gas composition analysis, including measurement of oxygen concentration. Method 3, 3A or 3B, at 40 CFR 60, shall be used simultaneously with each of the other reference methods. As an alternative to Method 3B, ASME PTC-19-10-1981-Part 10 may be used.

~~d) Method 3 or 3A, at 40 CFR 60 shall be used for gas composition analysis, including measurement of oxygen concentration. Method 3 or 3A, at 40 CFR 60, shall be used simultaneously with each reference method.~~

e) The pollutant concentrations shall be adjusted to 7 percent oxygen using the following equation:

$$C_{adj} = C_{meas}\ (20.9-7)/(20.9-\%O_2)$$

Where:

C_{adj} = pollutant concentration adjusted to 7 percent oxygen;
C_{meas} = pollutant concentration measured on a dry basis

(20.9-7) = 20.9 percent oxygen - 7 percent oxygen (defined oxygen corrective basis);

20.9 = oxygen concentration in air, percent; and

$\%O_2$ = oxygen concentration measured on a dry basis, percent.

f) Method 5, 26A, or 29, at 40 CFR 60, shall be used to measure PM emissions. As an alternative, a PM CEMS may be used in determining compliance with PM emissions using a 12-hour rolling average, calculated each hour as the average of the previous 12 operating hours.

~~f) Method 5 or 29, at 40 CFR 60 shall be used to measure particulate matter emissions.~~

g) Method 7 or 7E, at 40 CFR 60, shall be used to measure NO_x emissions.

h) Method 6 or 6C, at 40 CFR 60, shall be used to measure SO_2 emissions.

i~~g~~) Method 9, at 40 CFR 60, shall be used to measure stack opacity. As an alternative, the use of a bag leak detection system or a PM CEMS to demonstrate compliance with the PM standards is considered demonstrative of compliance with the opacity requirements.

j~~h~~) Method 10 or 10B, at 40 CFR 60, shall be used to measure CO emissions. As an alternative, a CO CEMS may be used to measure CO emissions.

k) Method 22, at 40 CFR 60, shall be used to measure fugitive ash emissions.

l~~i~~) Method 23, at 40 CFR 60, shall be used to measure total dioxin/furan emissions. As an alternative, the facility may elect to sample total dioxins/furans by installing, calibrating, maintaining, and operating a continuous automated sampling system for monitoring dioxin/furan emissions. The minimum sample time for Method 23 sampling shall be 4 hours per test run. If the affected facility has selected the TEQ for dioxin/furans (set out in Appendix A of this Part), as provided under Section 229.125~~(b)~~ or 229.126~~(b)~~ of this Part, whichever is applicable, the following procedures shall be used to determine compliance:

1) Measure the concentration of each dioxin/furan tetra-through-octa-congener emitted using Method 23;

2) For each dioxin/furan congener measured in accordance with subsection (i)(1) of this Section, multiply the congener concentration by its corresponding TEQ factor specified in Appendix A of this Part; and

3) Sum the products calculated in accordance with subsection (i)(2) of this Section to obtain the total concentration of dioxin/furans emitted in terms of TEQ.

m~~j~~) Method 26 or 26A, at 40 CFR 60, shall be used to measure HCl emissions. As an alternative, an HCl CEMS may be used to measure HCl emissions. Before January 1, 2014, if~~If~~ the affected facility has selected the percentage reduction standard for HCl as provided under Section 229.125(a)~~(b)~~ or 229.126(a)~~(b)~~ of this Part, whichever is applicable, the percentage reduction in HCl emissions ($\%R_{HCl}$) is computed using the following formula:

$$(\%R_{HCl}) = ((E_i - E_o)/E_i) \times 100$$

Where:

$\%R_{HCl}$ = percentage reduction of HCI emissions achieved;

E_i = HCI emissions concentration measured at the control device inlet, corrected to 7 percent oxygen (dry basis); and

E_o = metal emissions concentration (Pb, Cd, or Hg) measured at the control device outlet, corrected to 7 percent oxygen (dry basis).

n~~k~~) Method 29, at 40 CFR 60, shall be used to measure Pb, Cd, and Hg emissions. As an alternative, ASTM D6784-02 may be used to measure Hg emissions; a multi-metals CEMS or Hg CEMS may be used to measure Pb, Cd, and Hg emissions; or the facility may elect to sample Hg by installing, calibrating, maintaining, and operating a continuous automated sampling system for monitoring Hg emissions. Before January 1, 2014, if~~If~~ the affected facility has selected the percentage reduction standards for metals as provided in Section 229.125(a)~~(b)~~ or 229.126(a)~~(b)~~ of this Part, whichever is applicable, the percentage reduction in emissions ($\%R_{metal}$) is computed using the following formula:

$$(\%R_{metal}) = ((E_i - E_o)/E_i) \times 100$$

Where:

$\%R_{METAL}$ = percentage reduction of metal emissions (Pb, Cd, or Hg) achieved;

E_i = metal emissions concentration (Pb, Cd, or Hg) measured at the control device inlet, corrected to 7 percent oxygen (dry basis); and

E_O = metal emissions concentration (Pb, Cd, or Hg) measured at the control device outlet, corrected to 7 percent oxygen (dry basis).

(Source: Amended at 35 Ill. Reg. 16615, effective September 29, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Vital Records Code

2) Code Citation: 77 Ill. Adm. Code 500

3)

Section Numbers:	Adopted Action:
500.40	Amended
500.43	New

4) Statutory Authority: Vital Records Act [410 ILCS 535]

5) Effective Date of Rulemaking: October 3, 2011

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 Proposed Amendments Published in Illinois Register: 35 Ill. Reg. 750; January 14, 2011

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 the table of contents, Section 500.43, "-Related Surgery" was changed to "Re-assignment".

2. In Section 500.40(a)(1)(C), "names" was changed to "name or based on the newborn delivery records from the hospital".

3. In Section 500.40(a)(2)(K), "first or middle" was added after "parents".

4. In the fifth and sixth lines of Section 500.40(h)(3), "request" was stricken and "applicant" was added; "specify typewritten copies" was stricken and "request a short form certification" was added.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

5. Section 500.43 was rewritten as follows:

"**Section 500.43 Amendments to Birth Records Following Gender Re-assignment**

Changes to gender on birth records following an operation having the effect of reflecting, enhancing, changing, reassigning or otherwise affecting gender designation on an existing Illinois birth record shall be governed by this Section. A person born in Illinois, with an existing Illinois birth record, may submit an application to the Department seeking to have the gender changed on his or her own birth record after undergoing an operation having the effect of reflecting, enhancing, changing, reassigning or otherwise affecting gender. The burden of proof shall be on the applicant to clearly demonstrate that he/she has met the gender change criteria set forth in this Section.

a) Except as provided in subsection (b), all requested changes shall be supported by *an affidavit of a physician, licensed to practice medicine in Illinois or any other State.* The physician's affidavit shall clearly state *that he* or she *has performed an operation on* the applicant that has reassigned the gender of the applicant, *and that, by reason of the operation, the sex designation on* the applicant's *birth record* (certificate) *should be changed.* (Section 1(9) and 17(d) of the Act) The affidavit shall specify the name of the operation or operations that justify the change in gender on the applicant's birth record.

b) Applicants who have undergone a gender reassignment operation outside of the United States shall submit an affidavit signed by an examining physician duly licensed to practice medicine in Illinois or any state in the United States. The affidavit shall clearly establish that the examining physician personally examined the applicant and shall clearly state that the identified operation previously performed has reassigned the applicant's gender and justifies a change in the applicant's gender on his/her birth record.

c) The Department shall specify the form of the application and supporting affidavits and shall have the authority to request additional information and documentary proof, including copies of certified medical or other records.

d) Name changes shall comply with separate criteria for name changes in this Part.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 35 Ill. Reg. _____, effective _____)"

In addition, various typographical, grammatical, and form changes were made in response to JCAR comments.

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

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

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

15) Summary and Purpose of Rulemaking: Part 500 sets forth procedures for obtaining and amending birth, marriage, adoption, and death records in the State of Illinois. The rules have been amended to add provisions for amendments to birth records following a gender-related operation. A person born in Illinois, with an existing Illinois birth record, may submit an application to the Department seeking to have the gender changed on his or her own birth record after undergoing an operation having the effect of reflecting, enhancing, changing, or reassigning gender. Requirements for requesting a birth certificate gender change are set forth in the rules.

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, 5th Floor
Springfield, Illinois 62761
e-mail: dph.rules@illinois.gov

217/782-2043

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 e: VITAL RECORDS

PART 500
ILLINOIS VITAL RECORDS CODE

Section

500.10 Definitions
500.20 Access to Vital Records
500.30 Delayed Records of Birth
500.40 Amendments, Additions or Corrections to Vital Records
500.43 Amendments to Birth Records Following Gender Re-assignment
500.45 New Certificates of Birth
500.47 Illinois Adoption Registry and Information Exchange
500.50 Transportation and Disposition of Dead Human Body
500.60 Court Order to Restore Original Certificate of Birth
500.70 Availability of Medical and Health Information
500.80 Appointment and Removal of Local Registrars
500.90 Social Security Numbers of the Mother and Father of an Infant

500.APPENDIX A Birth Records
500.ILLUSTRATION A Certificate of Live Birth
500.ILLUSTRATION B Information For Medical and Health Use Only
500.ILLUSTRATION C Record of a Foreign Birth
500.ILLUSTRATION D Certificate of Birth – Foundling Child
500.ILLUSTRATION E Application for Search of Birth Record Files
500.ILLUSTRATION F Application for Correction of a Birth Certificate
500.APPENDIX B Delayed Birth Records
500.ILLUSTRATION A Instructions for Filing a Delayed Record of Birth for a Child Age One to Seven Years
500.ILLUSTRATION B Delayed Record of Birth
500.ILLUSTRATION C Filing a Delayed Record of Birth After the Seventh Birthday
500.ILLUSTRATION D Application for Delayed Record of Birth
500.ILLUSTRATION E Delayed Record of Birth (Registered After Seventh Birthday)
500.ILLUSTRATION F Affidavit in Support of an Application for a Delayed Registration of Birth

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

500.APPENDIX C Marriage Application and Record
500.APPENDIX D Certificate of Dissolution, Invalidity of Marriage or Legal Separation
500.APPENDIX E Adoption Records
500.ILLUSTRATION A Certificate of Adoption
500.ILLUSTRATION B Information Concerning Adoptive Parents
500.ILLUSTRATION C Information Concerning Parents
500.ILLUSTRATION D Instructions for Adoption Registry Forms
500.ILLUSTRATION E Birth Parent Registration Identification Form
500.ILLUSTRATION F Instructions for Adoptee Registration (Repealed)
500.ILLUSTRATION G Adopted Person Registration Identification Form
500.ILLUSTRATION H Information Exchange Authorization Form
500.ILLUSTRATION I Denial of Information Exchange Form
500.ILLUSTRATION J Instructions for Applying for a New Birth Certificate for a Legitimated Child
500.ILLUSTRATION K Surrendered Person Registration Identification Form
500.ILLUSTRATION L Non-surrendered Birth Sibling Registration
500.ILLUSTRATION M Adoptive Parent Registration Identification Form
500.ILLUSTRATION N Legal Guardian Registration Identification Form
500.ILLUSTRATION O Adoption Registry Application Form
500.ILLUSTRATION P Medical Questionnaire Form
500.APPENDIX F Death Records
500.ILLUSTRATION A Certificate of Fetal Death
500.ILLUSTRATION B Medical Examiner's – Coroner's Certificate of Death
500.ILLUSTRATION C Medical Certificate of Death
500.ILLUSTRATION D Application for Search of Death Record Files
500.ILLUSTRATION E Corrected Cause of Death Certification
500.ILLUSTRATION F Application for Correction of a Death Certificate
500.APPENDIX G Death Records
500.ILLUSTRATION A Report of Death
500.ILLUSTRATION B Necropsy (NEC)1
500.ILLUSTRATION C Permit for Disposition of Dead Human Body
500.ILLUSTRATION D Coroner's or Medical Examiner's Permit to Cremate a Dead Human Body
500.ILLUSTRATION E Application for Disinterment – Reinterment Permit
500.APPENDIX H Affidavits
500.ILLUSTRATION A Affidavit by Mother
500.ILLUSTRATION B Affidavit by Father
500.ILLUSTRATION C Affidavit and Certificate of Correction
500.ILLUSTRATION D Abstract of a Record

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

500.APPENDIX I Subregistrar's Appointment Blank

AUTHORITY: Implementing and authorized by the Vital Records Act [410 ILCS 535], Adoption Act [750 ILCS 50], and Jane Doe II v. Lumpkin, United States District Court, Central District of Illinois, Case No. 89-1224.

SOURCE: Amended April 7, 1976, effective May 1, 1976; amended at 6 Ill. Reg. 3880, effective March 29, 1982; codified at 8 Ill. Reg. 8917; emergency amendment at 15 Ill. Reg. 3593, effective February 20, 1991, for a maximum of 150 days; emergency expired July 22, 1991; amended at 15 Ill. Reg. 11706, effective August 1, 1991; emergency amendment at 24 Ill. Reg. 3885, effective February 25, 2000, for a maximum of 150 days; emergency expired July 24, 2000; amended at 24 Ill. Reg. 11882, effective July 26, 2000; amended at 35 Ill. Reg. 16682, effective October 3, 2011.

Section 500.40 Amendments, Additions or Corrections to Vital Records

a) The State Registrar shall endorse on the record or certificate the following additions and/or minor corrections made within one year after~~from~~ the date of occurrence without the certificate being considered amended. Additions or minor corrections shall be made unless the change affects the integrity of the record (for example, a contradiction to existing documentation such as a hospital medical record). For purposes of this Section, singular terms should be read to include the plural and vice versa, unless the context clearly indicates otherwise.

1) Minor Birth Corrections include, but are not limited to:

A) Additions and/or changes of given names of the registered person;

B) Changes in the time of birth, if it does not change date of occurrence;

C) Changes in the sex designation of the registered person within one year after the date of birth, if justified by the given name or based on the newborn delivery records from the hospital~~ or if supported by a notarized statement of a licensed physician~~;

D) Spelling errors or omissions of the parents'~~parent(s)~~ first or middle name;

E) Parents'~~Parent(s)~~ ages, if within two~~2~~ years of the age shown;

F) Parents' places~~Parent(s) place~~ of birth, if the country is not different;

G) Mother's residence and/or mailing address at the time of occurrence; or

H) Spelling errors in the registered person's and/or parent's~~parent(s)~~ surname, if verified by a signature~~signature(s)~~.

2) Minor Death Corrections include, but are not limited to:

A) Addition and/or changes of given names of the decedent;

B) Changes in the sex designation of the decedent, if justified by the given names or if supported by a notarized statement of a licensed physician;

C) Changes in ethnicity;

D) Changes in either the age or birth date~~birthdate~~ of the decedent (not both);

E) Decedent's place of birth, if not a different country;

F) Spelling errors or omission of the given or middle names of the marital spouse;

G) Additions or changes in the social security number;

H) Additions or changes in occupation/industry;

I) Additions or changes in obvious errors of dates of service;

J) Decedent's resident address;

K) Spelling errors or omissions of the parents' first or middle names~~parent(s) name(s)~~;

L) Relationship and/or mailing address of informant;

M) Date physician attended deceased;

N) Notification of coroner or medical examiner; or

O) Changes in hour of death, if date of death is not affected.

b) When such additions or minor corrections are made by the State Registrar, a notation as to the source of information, together with the date the change was made, and the initials of the authorized agent making the change, shall be made in the margin of the record in such a way as not to become a part of the certifiable record.

c) The State Registrar shall retain for six ~~(6)~~ years, either in the original or microphotographic form, all source documents used as the basis for additions or minor corrections. The State Registrar shall also furnish a copy of the amended certificate or record to the custodian of any permanent local records, and the~~such~~ records shall be corrected accordingly.

d) Once an item on the record or certificate has been corrected as a minor correction, all future amendments made to the same item~~item(s)~~ shall~~must~~ be completed in accordance with the major correction guidelines.

e) The State Registrar reserves the right to require proof to amend the record or certificate when the requested correction compromises the integrity of the vital record.

f) Certificates filed pursuant to the Act, including those filed at the time of occurrence or shortly thereafter, "delayed" certificates filed under ~~the provision of~~ Sections 14 and 19 of the Act, and "new" certificates filed under ~~the provisions of~~ Section 17 of the Act~~,~~ shall be corrected or amended in accordance with this Section.

1) A request for a major administrative correction of a certificate~~,~~ filed on or after January 1, 1916~~,~~ shall be made to the State Registrar. A request for a major administrative correction of a certificate filed prior to that date shall be made to the county clerk of the county in which the birth, death or fetal

death occurred. The request shall identify the certificate to be corrected by stating whether it is a birth, death or fetal death record. In addition, the name of the registered person, the date and place of the event, the items that~~which~~ are omitted or in error, and the correct information for those~~such~~ items shall~~must~~ also be submitted.

2) After consulting the certificate in the files, the county clerk may initiate the correction form and send it to the applicant with instructions regarding who should sign and what documentary proof, if any, is required to support the correction sought.

3) The persons who shall sign the correction form in the indicated order of priority are:

A) To correct birth certificates: the mother or father of the registered person, if the registered person is a minor; the registered person, if the person is of legal age; other next of kin or legal guardian; authorized official of a hospital, if the hospital record was the source of the personal particulars.

B) To correct death or fetal death certificates: the signators of the original certificate, i.e., the informant, physician, coroner/medical examiner, funeral director, decedent's spouse, mother, father, or other next of kin.

i) The medical certification of death can be amended by the certifying physician, or the attending physician who was in charge of the patient's care for the illness or condition that~~which~~ resulted in death.

ii) (Exception: A correction to a Medical Examiner's/Coroner's Certificate of Death within one year after the initial registration of the death shall be accomplished by the Medical Examiner or Coroner filing an "Amended Certificate of Death.")

g) Each copy of the correction form shall~~must~~ be individually signed. The affiants should sign their given names and present legal surnames~~surname,~~ and fill in the present complete address. The correction forms shall be signed in the presence of

a person authorized to administer oaths, who shall~~must~~ date the form, sign in ink, affix his or her~~their~~ seal or stamp, and enter the complete address.

1) Records created at or nearest following the date of birth provide the best proof to correct the child's given name or date of birth. Records created prior to the birth of the child are required to correct the given names of the parents, surname of the child and/or father, or mother's maiden name, color or race of parents, or age and birthplace of parents. Records created at or nearest following the decedent's birth provide the best proof to correct name, age, birth date~~birthdate~~, and birthplace. However, if such proof is not available, records created later in life may be accepted.

2) To correct color or race on a death record, the best evidence is the decedent's birth or marriage record or birth certificate of a child of the decedent. To correct marital status, the best evidence is the decedent's marriage record, spouse's death record, or divorce decree, if any, or other court records. To correct a fetal death record, information on documents required for similar items on live birth and death certificates shall be furnished.

3) To correct other items on a certificate, such documentary evidence shall be required as is deemed necessary to preserve the integrity of the certificate. More than one document may be required in some instances. Some corrections may not require documentary proof, depending on the nature of the correction and the identity of the affiant in relation to the registrant. The burden of submitting proof is on the applicant. The State Registrar shall make the final determination of whether the document submitted satisfactorily proves the correction sought. Any documents submitted, whether accepted or rejected as proof, shall be returned to the applicant, or his or her representative. Examples of available documents that~~which~~ substantiate facts are:

A) Baptismal or confirmation records;

B) Cradle roll certificates;

C) 1st grade school records;

D) Applicant's marriage record;

E) Military records;

F) Social security records;

G) Child's birth record;

H) Parents' marriage record;

I) Parent's birth record(s);

J) Immunization or clinic records;

K) Insurance policies;

L) Parent's Naturalization certificate;

M) Census records; or

N) Other documents as deemed appropriate.

h) The original certificate of birth, death, or fetal death shall have the correction entered on its face by inter-lineation~~interlineation~~ through the incorrect entries. The correct information is then typed or written above or near the incorrect information. A statement to the effect that the certificate has been amended, and the date, shall appear on the face of the certificate.

1) The Department shall permanently retain the original of the correction form~~ shall be permanently retained by the Department~~, either as an original record or in microphotographic form. An approved copy of the correction form, or an official copy of the certificate as corrected, shall be sent to the county clerk and local registrar, as their authority to correct their file copies of the certificate.

2) The applicant shall be notified that the correction has been approved and made.

3) Certifications or certified copies of the certificates as corrected will be furnished upon the written request of an eligible applicant as provided in

Section 25 of the Act. If the applicant desires~~wishes~~ certified copies that~~which~~ do not show the previous entries regarding the items that were~~which had been~~ corrected, the applicant~~request~~ should request a short form certification~~specify typewritten copies~~; however, a statement to the effect that the certificate had been amended, and the date amended, shall appear on the certified copy.

i) A correction form is not required to amend the surname on a birth certificate when the person has obtained a legal change of name from a court of competent jurisdiction. Legal name changes shall be reflected on a birth certificate~~,~~ if supported by a certified copy of the court decree. The new names will be entered on the original certificate in the files of the State Registrar by inter-lineation~~interlineation~~. The certificate shall be marked as having been amended and the decree number and the effective date entered. The State Registrar shall send the county clerk and local registrar official copies of the original certificate, as amended, to replace the copies in their files. Thereafter, any certifications or certified copies issued shall indicate that the certificate has been changed and the date of the amendment.

1) The addition of the father's identity on the child's birth certificate, at the request of the birth~~natural~~ father and mother, does not permit the changing of the child's surname to that of the father.

2) Name Change Based on Naturalization

A) The name of the informant (if parent), the name of the child and the name of the mother and/or father may be amended on the child's birth certificate, based upon a change of name granted to the parents~~parent(s)~~ by a naturalization court or other court of competent jurisdiction. This applies only if the name change was granted while the child was a minor.

B) If the child is of legal age at the time of his/her parents'~~parent(s)~~ naturalization, the Division of Vital Records is ~~only~~ authorized to amend only the informant's name (if parent) and/or the parents' names~~parent(s) name(s)~~ on the child's certificate of birth.

j) The State Registrar shall amend a~~A~~ delayed birth registration established by court order under the provisions of Section 15 of the Act ~~shall be amended by the State~~

~~Registrar~~ only upon the basis of an order from the court that~~which~~ originally established the facts of birth. The procedure followed in amending the certificate and issuing copies ~~of the same~~ is as described in subsection (i)~~above~~ regarding legal name changes.

k) To change the given name of a child on a new birth certificate filed under Section 17 of the Vital Records Act (if the applicant has knowledge of the adoption), a certified copy of an amended Adoption decree or an amended Certificate of Adoption will be required as proof.

l) A voluntary change of name, spelling of the given names or surname, or the order of the given names and/or surname as those~~such~~ names appear on the birth record~~,~~ shall not be reflected upon the birth record unless a request for the~~such~~ "correction" is accompanied by an appropriate court order.

m) When a request for a correction constitutes change in identity of the registrant or the father or mother, a court determination is required to reflect the~~such~~ change on the birth record.

n) The State Registrar shall not, at the request of any person, change a written signature on a record under the correction provisions. Such a change shall ~~only~~ be reflected on the certificate only with a court determination.

o) The State Registrar shall not, at the request of any person, change a file date on a certificate; therefore, the integrity of the record is protected.

p) Provisions for the addition of the birth~~natural~~ father's name and information to records:

1) When the parents are not married:

A) Both parents shall~~must~~ sign the major correction forms;

B) A court order is needed to change the child's surname; and

C) If~~In the event~~ either parent is deceased, a court determination shall be required to add the father's name and information to the record.

2) When parents are married at the time of the child's birth:

A) Both parents shall~~must~~ sign the major correction forms (the State Registrar will accept a certified copy of the divorce decree or death record and obituary notice in lieu of either parent's signature);

B) A court order is needed to change the child's surname;

C) The married name shall~~must~~ be added to the end of mother's name (if the mother is shown as an informant on record);

D) Legitimacy status shall~~must~~ be changed on the record.

(Source: Amended at 35 Ill. Reg. 16682, effective October 3, 2011)

Section 500.43 Amendments to Birth Records Following Gender Re-assignment

Changes to gender on birth records following an operation having the effect of reflecting, enhancing, changing, reassigning or otherwise affecting gender designation on an existing Illinois birth record shall be governed by this Section. A person born in Illinois, with an existing Illinois birth record, may submit an application to the Department seeking to have the gender changed on his or her own birth record after undergoing an operation having the effect of reflecting, enhancing, changing, reassigning or otherwise affecting gender. The burden of proof shall be on the applicant to clearly demonstrate that he/she has met the gender change criteria set forth in this Section.

a) Except as provided in subsection (b), all requested changes shall be supported by *an affidavit of a physician, licensed to practice medicine in Illinois or any other State*. The physician's affidavit shall clearly state *that he* or she *has performed an operation on* the applicant that has reassigned the gender of the applicant, *and that, by reason of the operation, the sex designation on* the applicant's *birth record* (certificate) *should be changed*. (Section 1(9) and 17(d) of the Act) The affidavit shall specify the name of the operation or operations that justify the change in gender on the applicant's birth record.

b) Applicants who have undergone a gender reassignment operation outside of the United States shall submit an affidavit signed by an examining physician duly licensed to practice medicine in Illinois or any state in the United States. The affidavit shall clearly establish that the examining physician personally examined the applicant and shall clearly state that the identified operation previously

performed has reassigned the applicant's gender and justifies a change in the applicant's gender on his/her birth record.

c) The Department shall specify the form of the application and supporting affidavits and shall have the authority to request additional information and documentary proof, including copies of certified medical or other records.

d) Name changes shall comply with separate criteria for name changes in this Part.

(Source: Added at 35 Ill. Reg. 16682, effective October 3, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Emergency Medical Services and Trauma Center Code

2) Code Citation: 77 Ill. Adm. Code 515

3)

Section Numbers:	Adopted Action:
515.330	Amended
515.455	New
515.850	New
515.APPENDIX D	Amended

4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

5) Effective Date of Rulemaking: September 29, 2011

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 Proposed Amendments Published in Illinois Register: May 6, 2011; 35 Ill. Reg. 7271

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:

In Section 515.455(a), after " Committee," add " hospital".

In Section 515.455(a), add "and approves" after "receives" and change "party to the dispute" to "entity's duly authorized representative".

In the last line of Section 515.455(a), add "The Director or designee will endeavor to issue a written decision within 30 days after receipt of all written submissions and verbal testimony, if verbal testimony is permitted." after "dispute."

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

In Section 515.455(b), add "," after "Emergency Medical Dispatcher" and delete "or" after "Emergency Medical Dispatcher".

In Section 515.455(b), add "or a member of the public" after "Trauma Nurse Specialist".

After Section 515.455(b), insert a new subsection (c) as follows:

c) The Department's Practice and Procedure in Administrative Hearings shall govern all proceedings.

A further change was made in response to JCAR (see below)

In existing Section 515.455(c), change "c)" to "d)".

In Section 515.APPENDIX D, PEDIATRIC RESPIRATORY ARREST, change "in accordance" to "consistent".

The following change was made in response to comments and suggestions of JCAR:

In Section 515.455 (c), "(77 Ill. Adm. Code 100)" was added before "shall".

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

Section Numbers:	Proposed Action:	Reg. Ill. Citation:
515.100	Amend	35 Ill. Reg. 7926; May 20, 2011
515.470	New	35 Ill. Reg. 7926; May 20, 2011
515.630	New	35 Ill. Reg. 7926; May 20, 2011
515.835	New	35 Ill. Reg. 7926; May 20, 2011
515.845	New	35 Ill. Reg. 7926; May 20, 2011
515.100	Amend	35 Ill. Reg. 10520; July 8, 2011

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

515.125	Amend	35 Ill. Reg. 10520; July 8, 2011
515.445	Amend	35 Ill. Reg. 10520; July 8, 2011
515.825	Amend	35 Ill. Reg. 10520; July 8, 2011
515.830	Amend	35 Ill. Reg. 10520; July 8, 2011
515.3090	New	35 Ill. Reg. 10520; July 8, 2011
515.4000	Amend	35 Ill. Reg. 10520; July 8, 2011
515.4010	Amend	35 Ill. Reg. 10520; July 8, 2011
515.4020	New	35 Ill. Reg. 10520; July 8, 2011
515.Appendix D	Amend	35 Ill. Reg. 10520; July 8, 2011
515.Appendix K	Amend	35 Ill. Reg. 10520; July 8, 2011
515.Appendix L	Amend	35 Ill. Reg. 10520; July 8, 2011
515.Appendix M	Amend	35 Ill. Reg. 10520; July 8, 2011
515.Appendix N	New	35 Ill. Reg. 10520; July 8, 2011
515.Appendix O	New	35 Ill. Reg. 10520; July 8, 2011
515.Appendix P	New	35 Ill. Reg. 10520; July 8, 2011
515.860	New	35 Ill. Reg. 12645; July 29, 2011

15) Summary and Purpose of Rulemaking: This rulemakings in Part 515 set forth requirements for Emergency Medical Services Systems, including emergency medical treatment, System requirements, and vehicle service providers. The proposed amendments to Section 515.330 and Section 515.Appendix D will reference Department-approved protocols for medical treatment, such as Basic Life Support (BLS), Emergency Medical Services for Children (EMSC) and other Emergency Medical Services (EMS) protocols, as part of the EMS System Plan.

A new Section is being added to set forth a process to end disputes between an EMS System, Vehicle Service Provider, Advisory Committee, EMS Medical Director or between any combination of any elements thereof if the dispute causes an imminent threat to the availability or quality of emergency pre-hospital care within the State of Illinois.

Public Act 96-1469 amended the Emergency Medical Services (EMS) Systems Act to authorize the Department to establish standards for the use of reserve ambulances. Section 515.850 is being added to implement this statutory change.

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

Susan Meister

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Division of Legal Services

Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761
e-mail: dph.rules@illinois.gov

217/782-2043

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 f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 515
EMERGENCY MEDICAL SERVICES AND TRAUMA CENTER CODE

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AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

SOURCE: Emergency Rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995 for a maximum of 150 days; emergency expired January 28, 1996; adopted at 20 Ill. Reg. 3203, effective February 9, 1996; emergency amendment at 21 Ill. Reg. 2437, effective January 31, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5170, effective April 15, 1997; amended at 22 Ill. Reg. 11835, effective June 25, 1998; amended at 22 Ill. Reg. 16543, effective September 8, 1998; amended at 24 Ill. Reg. 8585, effective June 10, 2000; amended at 24 Ill. Reg. 9006, effective June 15, 2000; amended at 24 Ill. Reg. 19218, effective December 15, 2000; amended at 25 Ill. Reg. 16386, effective December 20, 2001; amended at 26 Ill. Reg. 18367, effective December 20, 2002; amended at 27 Ill. Reg. 1277, effective January 10, 2003; amended at 27 Ill. Reg. 6352, effective April 15, 2003; amended at 27 Ill. Reg. 7302, effective April 25, 2003; amended at 27 Ill. Reg. 13507, effective July 25, 2003; emergency amendment at 29 Ill. Reg. 12640, effective July 29, 2005, for a maximum of 150 days; emergency expired December 25, 2005; amended at 30 Ill. Reg. 8658, effective April 21, 2006; amended at 32 Ill. Reg. 16255, effective September 18, 2008; amended at 35 Ill. Reg. 6195, effective March 22, 2011; amended at 35 Ill. Reg. 16697, effective September 29, 2011.

SUBPART C: EMS SYSTEMS

Section 515.330 EMS System Program Plan

An Emergency Medical Services (EMS) System Program Plan shall contain the following information:

a) The name, address and fax number of the Resource Hospital;

b) The names and resumes of the following persons:

1) The EMS MD~~Medical Director~~,

2) The Alternate EMS MD~~Medical Director~~,

3) The EMS Administrative Director,

4) The EMS System Coordinator;

c) The name, address and fax number of each Associate or Participating Hospital (see subsection (i) of this Section);

d) The name and address of each ambulance provider participating within the EMS System;

e) A map of the EMS System's service area indicating the location of all hospitals and ambulance providers participating in the System;

f) Current letters~~letter(s)~~ of commitment from the following persons at the Resource Hospital, which describe the commitment of the writer and his or her office to the development and ongoing operation of the EMS System, and which state the writer's understanding of and commitment to any necessary changes such as emergency department staffing and educational requirements:

1) The Chief Executive Officer of the hospital,

2) The Chief of the Medical Staff, and

3) The Director of the Nursing Services;

g) A letter of commitment from the EMS MD~~Medical Director~~ that describes the EMS MD's~~EMSMD's~~ agreement to:

1) Be responsible for the ongoing education of all System personnel, including coordinating didactic and clinical experience;

2) Develop written standing orders (treatment protocols, standard operating procedures) to be used in the EMS MD's~~EMSMD's~~ absence and certify that all involved personnel will be knowledgeable in emergency care and capable of providing treatment and using communications equipment once the program is operational;

3) Be responsible for supervising all personnel participating within the System, as described in the System Program Plan;

4) Develop or approve one or more ambulance emergency run reports (run sheets) covering all types of ambulance runs performed by System ambulance providers;

5) Ensure that the Department has access to all records, equipment and vehicles under the authority of the EMS MD~~EMSMD~~ during any Department inspection, investigation or site survey;

6) Notify the Department of any changes in personnel providing pre-hospital care in accordance with the EMS System Program Plan approved by the Department;

7) Be responsible for the total management of the System, including the enforcement of compliance with the System Program Plan by all participants within the System;

8) Ensure that a copy of the application for renewal (a form supplied by the Department) is provided to every EMT-B, EMT-I or EMT-P within the System who has not been recommended for re-licensure~~relicensure~~ by the EMS MD~~Medical Director~~; and

9) Be responsible for compliance with the provisions of Sections 515.400 and 515.410 of this Part;

h) A description of the method~~method(s)~~ of providing EMS services, which includes:

1) Single~~single~~ vehicle response and transport;

2) Dual~~dual~~ vehicle response;

3) Level~~level~~ of first response vehicle;

4) Level~~level~~ of transport vehicle;

5) Use~~use~~ of mutual aid agreements; and

6) Informing~~informing~~ the caller requesting an emergency vehicle of the estimated time of arrival when this information is requested by the caller;

i) A letter of commitment from each Associate or Participating Hospital within the System, which ~~that~~ includes the following:

1) Signed statements by the hospital's Chief Executive Officer, Chief of the Medical Staff and Director of the Nursing Service describing their commitments to the standards and procedures of the System;

2) A description of how the hospital will relate to the EMS System Resource Hospital, its involvement in the ongoing planning and development of the program, and its use of the education and continuing education aspects of the program;

3) Only at an Associate Hospital, a commitment to meet the System's educational standards for ECRNs;

4) An agreement to provide exchange of all drugs and equipment with all pre-hospital providers participating in the System or other EMS system whose ambulances transport to them;

5) An agreement to use the standard treatment orders as established by the Resource Hospital;

6) An agreement to follow the operational policies and protocols of the System;

7) A description of the level of participation in the training and continuing education of pre-hospital personnel;

8) An agreement to collect and provide relevant data as determined by the Resource Hospital;

9) A description of the hospital's data collection and reporting methods and the personnel responsible for maintaining all data;

10) An agreement to allow the Department access to all records, equipment

and vehicles relating to the System during any Department inspection, investigation or site survey;

11) If the hospital is a participant in another System, a description of how it will interact within both Systems and how it will ensure that communications interference as a result of this dual participation will be minimized; and

12) The names and resumes of the Associate Hospital EMS MD~~Medical Director~~ and Associate Hospital EMS Coordinator;

j) A letter of commitment from each ambulance provider participating within the System, which indicates compliance with Section 515.810 of this Part;

k) Descriptions and documentation of each communications requirement provided in Section 515.400 of this Part;

l) The Program Plan shall consist of the EMS System Manual, which shall be provided to all System participants and shall include the following Sections:

1) Education and Training

A) Content and curricula of training programs for EMT, Emergency Medical Dispatcher, First Responder, Pre-Hospital RN, ECRN and Lead Instructor candidates, including:

i) Entrance and completion requirements;

ii) Program schedules;

iii) Goals and objectives;

iv) Subject areas;

v) Didactic requirements, including skills laboratories;

vi) Clinical requirements; and

vii) Testing formats.~~;~~

B) Training program for Pre-arrival~~Prearrival~~ Medical Instructions, if applicable, including:

i) Entrance and completion requirements;

ii) Description of course materials; and

iii) Testing formats.~~;~~

C) Continuing education for EMTs, Pre-Hospital RNs, and ECRNs, including:

i) System requirements (hours, types of programs, etc.);

ii) System program for System participants: types of activities covered (e.g., telemetry review, and morbidity and mortality conferences) and protocols for enrollment and completion;

iii) Requirements for approval of academic course work;

iv) Didactic programs offered by the System;

v) Clinical opportunities available within the System; and

vi) Record-keeping requirements for participants, which must be maintained at the Resource Hospital.~~;~~

D) Renewal Protocols

i) System examination requirements for EMTs, Pre-Hospital RNs, ECRNs;

ii) Procedures for renewal of Pre-Hospital RN and ECRN approvals;

iii) Requirements for submission~~Submission~~ of transaction cards for EMTs meeting renewal requirements; and

iv) ~~Providing~~ Department renewal application forms for~~to~~ EMTs who have not met renewal requirements according to System records.~~;~~

E) System participant education and information, including:

i) Distribution of System Manual amendments;

ii) In-services for policy and protocol changes;

iii) Methods for communicating updates on System and Regional activities, and other matters of medical, legal and/or professional interest; and

iv) Locations of library/resource materials, forms, schedules, etc.~~;~~

F) A plan that describes how Emergency Medical dispatch agencies and First Responders participate within the EMS System Program Plan~~A plan for phasing in Emergency Medical Dispatcher and First Responder registration requirements over a five-year period for Emergency Medical Dispatchers and First Responders who choose to be included in the Program Plan~~ (see Sections 515.710 and 515.720 of this Part).~~;~~

G) A System may require that up to one-half of the continuing education hours that are required toward re-licensure~~relicensure~~, as determined by the Department, be earned through attendance at system-taught courses.~~;~~

H) A didactic continuing education course that has received a State site code shall be accepted by the System, subject only to the requirements of subsection (l)(1)(C) of this Section.~~;~~

2) Drugs and Equipment

A) A list of all drugs and equipment required for each type of System vehicle; and

B) Procedures for obtaining replacements at System hospitals.~~;~~

3) Personnel Requirements for EMTs

A) Minimum staffing for each type and level of vehicle; and

B) Guidelines for EMT patient interaction.~~;~~

4) In-Field Protocols, including medical-legal policies, but not limited to:

A) The Regional Standing Medical Orders;

B) System Standing Medical Orders as listed in Section 515.Appendix D, to include Department-approved protocols for medical treatment, including, but not limited to, burns, hypothermia, respiratory distress, shock, trauma, cardiac arrest and toxic exposure (e.g., Department-approved BLS medical treatment protocol, EMSC medical treatment protocol) at a minimum;

C) Appropriate interaction with law enforcement on the scene;

D) When and how to notify a coroner or medical examiner;

E) Appropriate interaction with an independent physician/nurse on the scene;

F) The use of restraints;

G) Consent for treatment of minors;

H) Patient choice and refusal regarding treatment, transport, and/or destination;

I) The duty to perform all services without unlawful discrimination;

J) Offering immediate and adequate information regarding services available to victims of abuse, for any person suspected to be a victim of domestic abuse;

K) Patient abandonment;

L) Emotionally disturbed patients;

M) Patient confidentiality and release of information;

N) Durable power of attorney for health care;

O) Do Not Resuscitate (DNR) orders (see Section 515.380 of this Part); and

P) A policy concerning the use of latex-free supplies.~~;~~

5) Communications standards and protocols, including:

A) The information contained in the System Program Plan relating to the requirements of Sections 515.410(a)(1), (2), (3) and (4) and 515.390(b) and (g) of this Part;

B) Protocols ensuring that physician direction and voice orders to EMS vehicle personnel and other hospitals participating in the System are provided from the operational control point of the Resource or Associate Hospital;

C) Protocols ensuring that the voice orders via radio and using telemetry shall be given by or under the direction of the EMS MD~~Medical Director~~ or the EMS MD's designee, who shall be either an ECRN, or physician; and

D) Protocols defining when an ECRN should contact a physician.~~;~~

6) Quality improvement measures for both adult and pediatric patient care shall~~should~~ be performed on a quarterly basis and be available upon Department request; ambulance operation and System training activities, including, but not limited to, monitoring training activities to ensure that the instructions and materials are consistent with United States Department of Transportation training standards for EMTs and Section 3.50 of the Act; unannounced inspections of pre-hospital services; and

peer review.~~;~~

7) Data collection and evaluation methods that include:

A) The process that will facilitate problem identification, evaluation and monitoring in reference to patient care and/or reporting discrepancies from hospital and pre-hospital providers;

B) A copy of the pre-hospital reporting form; and

C) A sample of the information and data to be reported to the Department summarizing System activity (see Section 515.350 of this Part).~~;~~

8) Operational policies that delineate the respective roles and responsibilities of all providers in the System regarding the provision of emergency service, including:

A) Resource Hospital overrides (situations in which Associate Hospital orders are overruled by the Resource Hospital);

B) Infectious disease and disinfection procedures, including the policy on significant exposure;

C) Reporting and documentation of problems; and

D) Protocols for ILS/ALS System personnel to assess the condition of a patient being initially treated in the field by BLS personnel, for the purpose of determining whether a higher level of care is warranted and transfer of care of the patient to the ILS or ALS personnel is therefore appropriate. The~~Such~~ protocols shall include a requirement that neither the assessment nor the transfer of care can be initiated if it would appear to jeopardize the patient's condition, and shall require that the~~such~~ activities of the System personnel be ~~done~~ under the immediate direction of the EMS MD~~Medical Director~~ or designee.~~;~~

9) Any procedures regarding disciplinary ~~and/~~or suspension decisions and the review of those decisions that the System has elected to follow in addition

to those required by the Act.~~;~~

10) Any System policies regarding abuse of controlled substances or conviction of a felony crime by System personnel whether on or off duty.~~;~~

11) The responsibilities of the EMS Coordinator~~Coordinator(s)~~, as designated by the EMS MD~~Medical Director~~, including data evaluation, supervision of clinical, didactic and field experience training, and physician and nurse education as required.~~; and~~

12) The responsibilities of the EMS MD~~Medical Director~~;

m) *Written protocols for the bypassing of or diversion to any hospital, trauma center or regional trauma center, which provide that a person shall not be transported to a facility other than the nearest hospital, regional trauma center or trauma center unless the medical benefits to the patient reasonably expected from the provision of appropriate medical treatment at a more distant facility outweigh the increased risks to the patient from transport to the more distant facility, or the transport is in accordance with the System's protocols for patient choice or refusal.*~~A F4written protocol for the bypassing of or diversion toF2 a F4hospital, trauma center or Regional trauma center other than the nearest hospital, Regional trauma center or trauma center unless the medical benefits to the patient reasonably expected from the provision of appropriate medical treatment at a more distant facility outweigh the increased risks to the patient from transport to the more distant facility, or the transport is in accordance with the System's protocols for patient choice or refusal.~~ (Section 3.20(c)(5) of the Act) The bypass status policy should include a statement that for any life-threatening condition a patient may be transported to the closest facility, whether or not that facility is on bypass status. In addition, a hospital can declare a resource limitation, which is further outlined in the System Plan, for the following conditions:

1) There are no critical or monitored beds available in the hospital; or

2) An internal disaster occurs in the hospital;

n) Bypass status may not be honored if three or more hospitals in a geographic area are on bypass status and transport time by an ambulance to the nearest facility exceeds 15 minutes;

o) Each hospital shall have a policy addressing peak census procedures, such as the model policy developed by the Department.

(Source: Amended at 35 Ill. Reg. 16697, effective September 29, 2011)

Section 515.455 Intra- and Inter-system Dispute Resolution

a) If the Director determines that a dispute exists between an EMS System, Vehicle Service Provider, Advisory Committee, hospital, or EMS MD or between any combination of any elements of these entities and the dispute causes an imminent threat to the availability or quality of emergency pre-hospital care within the State, then the Director or designee shall have the authority to resolve those disputes, if one party to the dispute requests the Director's intervention in writing. If the Director receives and approves such a request, then each entity's duly authorized representative shall be given the opportunity to submit written arguments and evidence in support of any potential resolution. The Director or designee shall have the authority to hear oral arguments and testimony based upon the written submissions. Any decision by the Director or designee shall be issued in writing and state the basis for the decision, which shall be final and binding upon all parties to the dispute. The Director or designee will endeavor to issue a written decision within 30 days after receipt of all written submissions and verbal testimony, if verbal testimony is permitted.

b) This dispute resolution procedure shall not be available to any EMT, ECRN, Pre-Hospital RN, Lead Instructor, First Responder, Emergency Medical Dispatcher, Trauma Nurse Specialist or a member of the public. This procedure shall not be applicable to any EMS System Suspension, Local Board of Review, action by the State EMS Disciplinary Review Board or the Department.

c) The Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) shall govern all proceedings.

d) *All final administrative decisions of the Department hereunder shall be subject to judicial review pursuant to the provisions of the Administrative Review Law* [35 ILCS 5/Art. III] . (Section 3.145 of the Act) A decision by the Director in accordance with this Section shall be considered an administrative review decision under Section 3.145 of the Act and shall be subject to judicial review.

(Source: Added at 35 Ill. Reg. 16697, effective September 29, 2011)

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NOTICE OF ADOPTED AMENDMENTS

SUBPART F: VEHICLE SERVICE PROVIDERS

Section 515.850 Reserve Ambulances

a) For the purposes of this Section, *"reserve ambulance" means a vehicle that meets all criteria set forth in* Section 515.830 of this Part, *except for the required inventory of medical supplies and durable medical equipment, which may be rapidly transferred from a fully functional ambulance to a reserve ambulance without the use of tools or special mechanical expertise.* (Section 3.85(a)(3)(C) of the Act)

b) No changes to the vehicular operating systems, such as the electrical, plumbing, lighting, emergency warning or dispatch and hospital communication systems, shall be permitted.

c) The vehicle service provider shall complete a vehicle inventory of equipment and supplies as required by Section 515.830 of this Part and any system specific requirements each time a reserve vehicle is placed into service.

d) The vehicle provider shall notify the EMS System within 48 hours after a reserve ambulance is placed into service. A copy of the vehicle inventory form shall be provided to the EMS System.

e) Any reserve ambulance placed into service for 10 days or more shall be inspected by the EMS System, and the System shall provide notification to the Department on a Department prescribed form.

f) Reserve ambulances shall be identified on the vehicle provider license in accordance with Section 515.800 of this Part.

(Source: Added at 35 Ill. Reg. 16697, effective September 29, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 515.APPENDIX D Standing Medical Orders

Department-approved medical treatment protocols (e.g., Department-approved BLS medical treatment protocol, EMSC medical treatment protocol) shall be included in all System protocols at a minimum.

1. STANDING MEDICAL ORDERS/CARDIAC PROTOCOLS shall include, at a minimum:

   Routine Cardiac Care
   Cardiac Arrest
   Cardiogenic Shock
   Ventricular Fibrillation
   Ventricular Tachycardia
   Ventricular Ectopy
   EMD (Electro-Mechanical Dissociation)/PEA (Pulseless Electrical Activity)
   PSVT (Paroxysmal Supraventricular Tachycardia)~~PVST~~
   Bradycardia
   Asystole

2. STANDING MEDICAL ORDERS/TRAUMA PROTOCOLS shall include, at a minimum:

   Field Triage Protocols
   Shock (Hypovolemia)
   Spinal Cord
   Head Trauma
   Load and Go Situations
   Traumatic Arrest
   Amputated Parts
   Burns

3. STANDING MEDICAL ORDERS/PROTOCOLS FOR MEDICAL EMERGENCIES shall include, at a minimum:

   Asthma
   Anaphylactic Shock
   Diabetic Emergencies

Drug Overdose
Coma, Origin Unknown
Status Epilepticus
Seizures
Heat Emergencies
Cold Emergencies
Poisoning
Radiation Injuries
Renal Protocols (care of patients with shunts and fistulas)
Near Drowning

4. STANDARD MEDICAL ORDERS/OBSTETRIC/GYNECOLOGICAL PROTOCOLS shall include, at a minimum:

Normal Deliveries
Hemorrhage, including third trimester bleeding
Abnormal Deliveries (i.e., cord or breech presentation)
Resuscitation of the Newborn
Rape/Sexual Assault

5. STANDING MEDICAL ORDERS/PEDIATRIC PROTOCOLS shall include, at a minimum:

PEDIATRIC PRIMARY ASSESSMENT − A foundation for all pediatric patient interactions, this protocol shall~~should~~ reinforce the need for consistent, methodical patient assessment. Commonly referred to as "routine medical care" in adult protocols, the protocol shall~~should~~ reinforce the following:

- Importance of rapid BLS interventions (i.e., CPR) specifically airway support
- Age-appropriate signs and symptoms of pediatric respiratory distress
- Age-appropriate airway interventions including the use of "blow-by" oxygen administration
- Indicators of adequate ventilation and perfusion
- Age-appropriate immobilization of the pediatric trauma patient
- Recognition of and monitoring for imminent life threats
- Unique assessment considerations and emergent care requirements of children with special health care needs (CSHN), including those who are technologically dependent. The~~Emphasize the~~ appropriate inclusion of

parents/primary caregivers shall be emphasized.

TREATMENT AND RECOGNITION OF THE FOLLOWING DYSRHYTHMIA:

- Asystole
- Pulseless Electrical Activity
- Ventricular Fibrillation or Pulseless Ventricular Tachycardia
- Ventricular Tachycardia

Treatment modalities/algorithms shall~~should~~ be consistent with the guidelines set forth by the American Heart Association's "Pediatric Advanced Life Support" algorithms. The use of intraosseous access shall~~should~~ be taught to all ALS providers.

NEONATAL RESUSCITATION − Shall~~Must~~ incorporate the specific heart rate parameters and requisite interventions according to the American Heart Association recommendations.

PEDIATRIC RESPIRATORY ARREST − Treatment shall~~must~~ be consistent ~~be in accordance~~ with the American Heart Association "Pediatric Advanced Life Support" guidelines.

PEDIATRIC RESPIRATORY DISTRESS − Differentiation shall~~should~~ be made between "upper airway obstruction" (i.e., croup, epiglottitis and foreign body) and other "non-obstructive" causes of respiratory insufficiency (i.e., asthma, bronthiolitis, pneumonia). The potential for invasive airway interventions shall~~must~~ also be identified.

PEDIATRIC BRADYCARDIA − Treatment in accordance with the American Heart Association recommendations.

PEDIATRIC TACHYCARDIA − Interventions for both wide and narrow complex tachycardias in accordance with the American Heart Association recommendations.

PEDIATRIC SHOCK − Differentiation shall~~should~~ be made between "hypovolemic" (dehydration, hemorrhagic) and "distributive" (sepsis).

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PEDIATRIC ALLERGIC REACTION/ANAPHYLAXIS − Special attention shall be given to the differentiation between symptomatic (hives), mild respiratory distress and severe respiratory distress.

PEDIATRIC SEIZURE − Shall~~Must~~ include the identification of rapid blood glucose monitoring in the field, considerations for febrile seizures and administration of rectal benzodiazepines (specifically in children less than three~~3~~ years old).

PEDIATRIC ALTERED LEVEL OF CONSCIOUSNESS − The~~Emphasize the~~ importance of recognizing etiology, aggressive airway maintenance, glucose monitoring and naloxone administration shall be emphasized.

PEDIATRIC TOXIC EXPOSURES/INGESTIONS − Accidental~~Incorporate accidental/~~environmental events commonly encountered in the pediatric population shall be incorporated. Special consideration shall~~should~~ be made to the susceptibility of children to environmental events such as hyperthermia.

PEDIATRIC HYPOTHERMIA − The~~Emphasize the~~ pediatric population at high risk for hypothermia~~:~~ (neonates and infants) shall be emphasized. Aggressive~~Address aggressive~~ airway management, warming techniques and recognition of frostbite injury shall be addressed. Interventions for arrhythmias shall be in accordance with the American Heart Association recommendations.

PEDIATRIC NEAR DROWNING − Aggressive~~Emphasize aggressive~~ airway management and the potential for associated cervical spine injury and hypothermia shall be emphasized.

PEDIATRIC BURNS − Special emphasis shall be placed on the pediatric "rule of nines" for burn size estimation, aggressive airway management and triage to the appropriate facility. Differentiation shall~~should~~ be made between thermal injuries, chemical injuries and electrical injuries.

PEDIATRIC TRAUMA − Emphasis shall~~should~~ be made on mechanism of injury, limited on-scene time, aggressive airway maintenance and field triage to the appropriate facility and addressing the unique needs of the head-injured child.

SUSPECTED CHILD ABUSE/NEGLECT − Special emphasis shall~~should~~ be made on careful documentation of physical findings, discrepancy between history

of injury and physical findings, interaction between child and parent/caregiver, and characteristics of the environment. The~~Discuss the~~ pre-hospital provider's responsibility as a mandated reporter~~,~~ and responsibility to report suspicions to the emergency room staff shall be discussed. Directions~~Include directions~~ for responding to parent/caregiver refusal to allow transport shall be included.

6. STANDING MEDICAL ORDERS/PROTOCOLS FOR SPECIAL SITUATIONS shall include, at a minimum:

Psychological Emergencies
Spousal Abuse
Geriatric Abuse
Child Abuse

7. STANDING MEDICAL ORDERS/PROTOCOLS FOR THE PROCEDURES LISTED as well as any others that~~which~~ may be System specific:

Adult Intubation Procedure
Pediatric Intubation Procedure
Defibrillation
Transtracheal Ventilation-Cricothyrotomy
Chest Decompression
Cardioversion
Medication Administration-IV/ett

8. Standing medical orders may be organized as assessment based versus diagnostic, such as~~,~~ altered mental status, abnormal vital signs, dysrhythmias and/or blocks, respiratory distress~~,~~ and chest pain.

(Source: Amended at 35 Ill. Reg. 16697, effective September 29, 2011)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Child Health Examination Code

2) Code Citation: 77 Ill. Adm. 665

3) Section Number: 665.240 — Adopted Action: Amended

4) Statutory Authority: Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and Section 6.2 of the Lead Poisoning Prevention Act [410 ILCS 45/6.2]

5) Effective Date of Rulemaking: September 27, 2011

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 Proposed Amendments Published in Illinois Register: 35 Ill. Reg. 8766; June 10, 2011

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

11) Differences between proposal and final version: None

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

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

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

15) Summary and Purpose of Rulemaking: Existing rules specify required immunizations, physical examinations, and acceptable exemptions for children attending child care facilities, children entering school-operated programs below the kindergarten level and kindergarten through 12th grade. This rulemaking will modify existing requirements to align with current accepted clinical practices as recommended by the Advisory

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP) and the Academy of Family Physicians (AFP). At least 35 other states have already instituted requirements for adolescent vaccinations to address waning immunity to pertussis. Illinois reported over 1,000 cases of pertussis in 2010, with 45% of cases occurring in school-age children. In an effort to protect unprotected infants who are at highest risk of complications, it is critical to provide full protection to the rest of the community. The amendment will align the vaccination requirement with existing mandatory physical examination requirements at 6th grade and ensure that older students receive "catch up" vaccinations at the time of the next required physical examination required for school entry at 9th grade.

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761
e-mail: dph.rules@illinois.gov

217/782-2043

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER i: MATERNAL AND CHILD HEALTH

PART 665
CHILD HEALTH EXAMINATION CODE

SUBPART A: GENERAL PROVISIONS

Section
665.100 Statutory Authority (Repealed)
665.105 Definitions
665.110 General Considerations (Repealed)
665.115 Referenced Materials

SUBPART B: HEALTH EXAMINATION

Section
665.120 Health Examination Requirements
665.130 Performance of Health Examination and Verification of Certificate of Child Health Examination
665.140 Timetable for Examinations
665.150 Report Forms
665.160 Proof of Examination
665.210 Proof of Immunizations
665.220 Local School Authority (Repealed)
665.230 School Entrance
665.240 Basic Immunization
665.250 Proof of Immunity
665.260 Booster Immunizations
665.270 Compliance with the School Code
665.280 Physician Statement of Immunity
665.290 List of Non-immunized Students

SUBPART C: VISION AND HEARING SCREENING

Section
665.310 Vision and Hearing Screening

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

SUBPART D: DENTAL EXAMINATION

Section
665.410 Dental Examination Requirement
665.420 Dental Examination Timetable
665.430 Dental Examination
665.440 Guidelines (Repealed)
665.450 Waiver of Dental Examination Requirement

SUBPART E: EXCEPTIONS

Section
665.510 Objection of Parent or Legal Guardian
665.520 Medical Objection

SUBPART F: EYE EXAMINATION

Section
665.610 Eye Examination Requirement
665.620 Vision Examination (Repealed)
665.630 Eye Examination Report
665.640 Indigent Students (Repealed)
665.650 Waiver of Eye Examination Requirement

SUBPART G: DIABETES SCREENING

Section
665.700 Diabetes Screening Requirement
665.710 Diabetes Screening
665.720 Testing Recommendations

665.APPENDIX A Illinois Department of Public Health Eye Examination Report
665.APPENDIX B Vaccination Schedule for Haemophilus influenzae type b Conjugate Vaccines (Hib)
665.APPENDIX C Illinois Department of Public Health Eye Examination Waiver Form
665.APPENDIX D Illinois Department of Public Health Dental Examination Form
665.APPENDIX E Illinois Department of Public Health Dental Examination Waiver Form

AUTHORITY: Implementing and authorized by Section 27-8.1 of the School Code [105 ILCS

5/27-8.1] and Section 6.2 of the Lead Poisoning Prevention Act [410 ILCS 45/6.2].

SOURCE: Emergency rule adopted at 4 Ill. Reg. 38, p. 275, effective September 10, 1980, for a maximum of 150 days; emergency rule adopted at 4 Ill. Reg. 41, p. 176, effective October 1, 1980, for a maximum of 150 days; adopted at 5 Ill. Reg. 1403, effective January 29, 1981; codified at 8 Ill. Reg. 8921; amended at 11 Ill. Reg. 11791, effective June 29, 1987; amended at 13 Ill. Reg. 11565, effective July 1, 1989; amended at 13 Ill. Reg. 17047, effective November 1, 1989; emergency amendment at 14 Ill. Reg. 5617, effective March 30, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14543, effective August 27, 1990; amended at 15 Ill. Reg. 7706, effective May 1, 1991; amended at 18 Ill. Reg. 4296, effective March 5, 1994; amended at 20 Ill. Reg. 11950, effective August 15, 1996; emergency amendment at 21 Ill. Reg. 11966, effective August 15, 1997, for a maximum of 150 days; emergency expired on January 1, 1998; amended at 26 Ill. Reg. 5921, effective July 1, 2002; amended at 26 Ill. Reg. 10689, effective July 1, 2002; amended at 29 Ill. Reg. 18127, effective October 24, 2005; emergency amendment at 32 Ill. Reg. 8778, effective May 30, 2008, for a maximum of 150 days; emergency expired October 26, 2008; emergency amendment at 32 Ill. Reg. 9055, effective June 6, 2008, for a maximum of 150 days; emergency expired November 2, 2008; amended at 33 Ill. Reg. 7011, effective May 11, 2009; amended at 33 Ill. Reg. 8459, effective June 8, 2009; amended at 35 Ill. Reg. 16723, effective September 27, 2011.

SUBPART B: HEALTH EXAMINATION

Section 665.240 Basic Immunization

a) Diphtheria, Pertussis, Tetanus

1) Any child two~~2~~ years of age or older entering a school program (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) shall~~must~~ show proof (see Section 665.250(b)) of having received four~~4~~ or more doses of Diphtheria, Tetanus, Pertussis (DTP or DTaP) vaccine. The first three~~3~~ doses in the series shall~~must~~ have been received no less than four~~4~~ weeks (28 days) apart. The interval between the third and fourth or final dose shall~~must~~ be at least six~~6~~ months.

2) Any child entering ~~school,~~ kindergarten or first grade~~,~~ for the first time shall~~must~~ show proof (see Section 665.250(b)) of having received four~~4~~ or more doses of Diphtheria, Tetanus, Pertussis (DTP or DTaP) vaccine, with

the last dose being a booster and having been received on or after the fourth birthday. The first three~~3~~ doses in the series shall~~must~~ have been received no less than four~~4~~ weeks (28 days) apart. The interval between the third and fourth or final dose shall~~must~~ be at least six~~6~~ months. Children 6 years of age and older may receive Tetanus, Diphtheria (Td) vaccine in lieu of DTP or DTaP vaccine. ~~Pertussis vaccine is not medically recommended for children 7 years of age or older.~~

3) Any child entering school at a grade level not included in subsection (a)(1) or (2) of this Section shall~~must~~ show proof (see Section 665.250(b)) of receiving three~~3~~ or more doses of DTP, DTaP, pediatric DT or adult Tetanus, Diphtheria (Td) with the last dose being a booster and having been received on or after the fourth birthday. The first two~~2~~ doses in the series shall~~must~~ have been received no less than four~~4~~ weeks (28 days) apart. The interval between the second and third or final doses shall~~must~~ be at least six~~6~~ months.

4) Receipt of pediatric Diphtheria Tetanus (DT) vaccine in lieu of DTP or DTaP is acceptable only if the pertussis component of the vaccine is medically contraindicated. Documentation of the medical contraindication shall~~must~~ be verified as specified in Section 665.520.

~~5) If 10 years have elapsed since the last booster, an additional Td booster is required. Receipt of Tetanus Toxoid (T.T.) vaccine is not acceptable in fulfilling this requirement.~~

5) Beginning with school year 2011-12, any child entering sixth grade shall show proof (see Section 665.250(b) of receiving one dose of Tdap (defined as tetanus, diphtheria, acellular pertussis) vaccine regardless of the interval since the last DTaP, DT or Td dose.

6) Students entering grades seven through 12 who have not already received Tdap are required to receive 1 Tdap dose regardless of the interval since the last DTaP, DT or Td dose.

b) Polio

1) Any child two~~2~~ years of age or older entering a school program (defined as nursery schools, pre-school programs, early childhood programs, Head

Start, or other pre-kindergarten child care programs offered or operated by a school or school district) shall~~must~~ show proof (see Section 665.250(b)) of having received three~~3~~ or more doses of polio vaccine (defined as oral poliovirus vaccine (OPV) or inactivated poliovirus vaccine (IPV)). Doses in the series shall~~must~~ have been received no less than four~~4~~ weeks (28 days) apart.

2) Any child entering school at any grade level~~,~~ (K-12)~~,~~ shall~~must~~ show proof (see Section 665.250(b)) of having received three~~3~~ or more doses of polio vaccine (defined as oral poliovirus vaccine (OPV) or inactivated poliovirus vaccine (IPV)). A child who received any combination of IPV and OPV shall~~must~~ show proof of having received at least four~~4~~ doses, with the last dose having been received on or after the fourth birthday. Doses in the series shall~~must~~ have been received no less than four~~4~~ weeks (28 days) apart. A child who received IPV exclusively or OPV exclusively shall~~must~~ show proof of having received at least three~~3~~ doses, with the last dose having been received on or after the fourth birthday. Doses in the series shall~~must~~ have been received no less than four~~4~~ weeks (28 days) apart.

c) Measles

1) Any child two~~2~~ years of age or older entering a school program (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) shall~~must~~ show proof (see Section 665.250(b)) of having received one dose of live measles virus vaccine on or after the first birthday, or other proof of immunity described in Section 665.250(c).

2) Children entering at any grade level~~,~~ (K-12)~~,~~ shall~~must~~ show evidence of having received two~~2~~ doses of live measles virus vaccine, the first dose on or after the first birthday and the second dose no less than four~~4~~ weeks (28 days) after the first or other proof of immunity described in Section 665.250(c).

3) For students attending school programs where grade levels (K-12) are not assigned, including special education programs, proof of two~~2~~ doses of live measles virus vaccine as described in subsection (c)(2) of this Section shall be submitted prior to the school year in which the child reaches the

ages of five~~5~~, 10, and 15.

d) Rubella
Any child two~~2~~ years of age or older entering a school program at any grade level, including nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district, shall~~must~~ show proof (see Section 665.250(b)) of receiving at least one dose of rubella vaccine on or after the first birthday. Proof of disease is not acceptable unless laboratory evidence of rubella immunity is presented (see Section 665.250(d)).

e) Mumps
Any child two~~2~~ years of age or older entering a school program at any grade level, including nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district, shall~~must~~ show proof (see Section 665.250(b)) of receiving at least one dose of mumps vaccine on or after the first birthday. Proof of disease, if verified by a physician~~ licensed to practice medicine in all of its branches~~, or laboratory evidence of mumps immunity may be substituted for proof of vaccination (see Section 665.250(e)).

f) Haemophilus influenzae type b (Hib)

1) Any child two~~2~~ years of age or older entering a school program (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) shall~~must~~ show proof of immunization that complies with the Hib vaccination schedule in Appendix B of this Part.

2) Children 24 to~~-~~ 59 months of age who have not received the primary series of Hib vaccine, according to the Hib vaccination schedule, shall~~must~~ show proof of receiving one dose of Hib vaccine at 15 months of age or older.

3) Any child five~~5~~ years of age or older shall not be required to provide proof of immunization with Hib vaccine.

g) Hepatitis B

1) Any child two~~2~~ years of age or older entering a school program (defined

as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) shall~~must~~ show proof (see Section 665.250(b)) of having received three~~3~~ doses of hepatitis B vaccine. The first two~~2~~ doses shall~~must~~ have been received no less than four~~4~~ weeks (28 days) apart. The interval between the second and third dose shall~~must~~ be at least two~~2~~ months. For children entering a school program for the first time on or after July 1, 2002, the interval between the first dose and the third dose must be at least 4 months. The third dose must have been administered on or after 6 months of age. Proof of prior or current infection, if verified by laboratory evidence, may be substituted for proof of vaccination (see Section 665.250(f)).

2) Children entering the fifth grade for the first time between July 1997 and June 30, 2002 must show evidence of having received three~~3~~ doses of hepatitis B vaccine. The first 2 doses must have been received no less than 4 weeks (28 days) apart. The interval between the second and third dose must be at least 2 months. Proof of prior or current infection, if verified by laboratory evidence, may be submitted for proof of vaccination (see Section 665.250(f)).

3) Children entering the fifth grade for the first time on or after July 1, 2002 must show evidence of having received three~~3~~ doses of hepatitis B vaccine, or other proof of immunity described in Section 665.250(f). The first two~~2~~ doses shall~~must~~ have been received no less than four~~4~~ weeks (28 days) apart. The interval between the second and third dose shall~~must~~ be at least two~~2~~ months. The interval between the first and third dose shall~~must~~ be at least four~~4~~ months. Proof of prior or current infection, if verified by laboratory evidence, may be submitted for proof of vaccination (see Section 665.250(f)).

4) The third dose of hepatitis B vaccine is not required if it can be documented that the child received two~~2~~ doses of adult formulation Recombivax-HB vaccine (10 mcg) and was 11 to~~-~~ 15 years of age at the time of vaccine administration, and that the interval between receipt of the two~~2~~ doses was at least four~~4~~ months.

h) Varicella

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

1) Any child two~~2~~ years of age or older entering a school program below~~under~~ the kindergarten level (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergrten child care programs offered or operated by a school or school district) for the first time on or after July 1, 2002, shall~~must~~ show proof (see Section 665.250(b)) of having received one dose of varicella vaccine on or after the first birthday, proof of prior varicella disease as described in Section 665.250(g), or laboratory evidence of varicella immunity.

2) Children entering kindergarten for the first time on or after July 1, 2002, shall~~must~~ show proof of having received at least one dose of varicella vaccine on or after the first birthday, proof of prior varicella disease as described in Section 665.250(g), or laboratory evidence of varicella immunity.

3) For students attending school programs where grade levels are not assigned, proof of having received at least one dose of varicella vaccine on or after the first birthday or other proof of immunity as described in subsection (h)(2) of this Section shall be submitted prior to the school year in which the child reaches the age of five~~5~~.

(Source: Amended at 35 Ill. Reg. 16723, effective September 27, 2011)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Starting

2) Code Citation: 11 Ill. Adm. Code 1415

3) Section Number: 1415.15 Adopted Action: Amend

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

5) Effective Date of Rulemaking: October 1, 2011

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 amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 9996; June 24, 2011

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

11) Differences between proposal and final version: An incorporation by reference was added.

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

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

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

15) Summary and purpose of rulemaking: This adopted rulemaking permits the Board to identify racehorses that have been implanted with a microchip. Once a horse has been microchipped, it has its own unique code number. The microchipping of thoroughbreds in the U.S. is set to begin, with the Jockey Club now offering microchips for sale. Microchips are not currently a requirement for thoroughbred registration and participation is voluntary. However, all foals in Europe are now required to be microchipped.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

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

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING (THOROUGHBRED)

PART 1415
STARTING

Section

1415.10 Identification of Horses
1415.15 Lip Tattoo or Microchip
1415.20 Authority of Starter
1415.30 Jockeys to Dismount
1415.40 All Horses Parade
1415.50 Horses Led to Post
1415.60 Starter's Orders
1415.70 Starter's Assistants
1415.80 Causes of Delay
1415.90 Report Presence on Grounds
1415.100 Jockey Fees Paid
1415.110 Licensed Trainer
1415.120 Veterinarians' List
1415.130 Scratches and Refunds
1415.140 Number of Starters
1415.150 Horse Must Run the Course
1415.160 Starting Gate
1415.170 Post Positions
1415.180 Horse, When a Starter
1415.190 Failure of Starting Gate
1415.200 Start Without Gate
1415.210 Horse, When a Starter Without a Gate
1415.220 Schooling
1415.230 Twitches and War Bridles (Repealed)
1415.240 Starter (Repealed)
1415.250 Starter Reports Fines (Repealed)
1415.260 Inspection of Plating
1415.270 Change in Course
1415.280 Equipment Changes

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

1415.290 Prohibited Equipment

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

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); amended at 5 Ill. Reg. 8911, effective August 25, 1981; codified at 5 Ill. Reg. 10985; amended at 6 Ill. Reg. 10013, effective August 3, 1982; amended at 7 Ill. Reg. 2170, effective February 4, 1983; amended at 14 Ill. Reg. 20056, effective December 4, 1990; amended at 18 Ill. Reg. 11620, effective July 7, 1994; amended at 27 Ill. Reg. 538, effective January 1, 2003; amended at 33 Ill. Reg. 4165, effective March 1, 2009; amended at 35 Ill. Reg. 16733, effective October 1, 2011.

Section 1415.15 Lip Tattoo or Microchip

No horse will be permitted to start at a pari-mutuel race meeting unless it has been tattooed on the upper lip with an~~his~~ identification number or implanted with an electronic horse identification microchip that accurately identifies the horse and is compliant with the international standards (International Organization for Standardization, ISO Central Secretariat, 1, ch. De la Voie-Creuse, CP 56, CH-1211 Geneva 20 Switzerland, ISO Standard 11784:1996, no later editions or amendments). However, the requirement of a lip tattoo shall not apply to horses entered in stakes races when the~~such~~ horses are fully identified pursuant to ~~the provisions of rule 193 (11 Ill. Adm. Code~~ Section 1415.10~~)~~ and when the~~such~~ horses have raced at pari-mutuel race meetings outside of North America.

(Source: Amended at 35 Ill. Reg. 16733, effective October 1, 2011)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Electronic Filing of Returns or Other Documents

2) Code Citation: 86 Ill. Adm. Code 760

3) Section Number: 760.100 — Adopted Action: Amendment

4) Statutory Authority: 35 ILCS 5/501

5) Effective Date of Amendment: September 29, 2011

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 Department of Revenue's principal office and is available for public inspection.

9) Notice of Proposals Published in Illinois Register: 35 Ill. Reg. 10292; July 1, 2011

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 necessary.

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

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

15) Summary and Purpose of Rulemaking: This rulemaking requires corporations that are required to electronically file their federal income tax returns to also file their Illinois income tax returns electronically, beginning with returns for taxable years ending December 31, 2011.

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Paul Caselton
Deputy General Counsel-Income Tax
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-7055

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 760
ELECTRONIC FILING OF RETURNS OR OTHER DOCUMENTS

Section

760.100 Electronic Returns
760.110 Exclusions from Electronic Filing
760.120 Where to Send Electronic Returns (Repealed)
760.200 Ways to Participate in Electronic Filing
760.210 Enrollment in the Electronic Filing Program
760.220 Electronic Payment Required
760.230 Electronic Signatures
760.240 Due Dates and Date Received
760.300 Responsibilities of Electronic Filers
760.310 Filing Acknowledgments
760.320 Electronic Payment Acknowledgments
760.330 Termination of Voluntary Participants

AUTHORITY: Implementing and authorized by Section 2505-200 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-200].

SOURCE: Adopted at 22 Ill. Reg. 14905, effective August 3, 1998; amended at 27 Ill. Reg. 14636, effective August 26, 2003; amended at 30 Ill. Reg. 11590, effective June 26, 2006; amended at 35 Ill. Reg. 529, effective December 21, 2010; amended at 35 Ill. Reg. 16737, effective September 29, 2011.

Section 760.100 Electronic Returns

a) The Department has mandatory electronic filing programs and voluntary programs for certain returns and other documents that are required to be filed with the Department. Upon acceptance into the program, the returns, schedules, and other documents listed in this Section may be electronically filed with the Department.

b) An electronic return or other document consists of data transmitted to the Department electronically, and may include paper documents that contain information that cannot be electronically transmitted or are requested for

verification. In total, electronic returns must contain the same information as traditionally filed paper documents.

c) Mandatory Programs

1) Beginning January 1, 2003, telecommunications providers who have average monthly tax billings for the immediately preceding calendar year that exceed $1000 must file their tax returns and supporting schedules electronically. Paper documents that contain information that cannot be electronically provided or are requested for verification must be mailed to the Department. The following circumstances require paper documentation:

A) When a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).

B) When a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.

C) When the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.

2) Beginning January 1, 2003, cigarette distributors with 30 or more invoice transactions per month and who are not voluntarily filing returns and schedules by electronic means are required to file supporting schedule data with the Department on computer-generated magnetic media in a format prescribed by the Department.

3) Beginning with calendar year 2011, each income tax return preparer who is required during the calendar year to file by electronic means any federal income tax return for any individual or individuals and who prepared more than 100 Illinois income tax returns for individuals during the preceding calendar year is required during the calendar year to file by electronic means any Illinois income tax returns he or she prepares for the same individual or individuals for the same taxable year for which the preparer

filed a federal income tax return during that calendar year. This subsection (c)(3) does not require electronic filing of amended returns or of returns of trusts or estates, or of any return the Department has announced cannot be filed by electronic means.

4) Beginning with returns required to be filed for taxable years ending on or after December 31, 2011, any taxpayer required to file its federal income tax return by electronic means is required to file its equivalent Illinois income tax return for the same taxable year by electronic means. This subsection (c)(4) does not require electronic filing of amended returns or of returns of individuals or estates, or to any return the Department has announced cannot be filed by electronic means.

d) Voluntary Programs

1) Taxpayers may volunteer to participate in any electronic filing program currently in effect for mandatory electronic filers.

2) Form ST-1, Sales and Use Tax Return, and Form ST-2, Multiple Site attachment for Form ST-1, can be transmitted electronically under the provisions of this Part.

3) Beginning January 1, 2003, original or amended liquor tax returns and schedules for Liquor Tax participants may be filed electronically under the provisions of this Part.

A) Paper documents that contain information that cannot be electronically provided or are requested for verification must be mailed to the Department. They include:

i) Copies of schedules, invoices or bills of lading requested for verification in accordance with Section 8-2 of the Liquor Control Act of 1934 [235 ILCS 5/8-2].

ii) Non-Beverage User permits.

B) Beginning January 1, 2003, persons filing liquor tax returns and schedules electronically must also make payments by means of electronic funds transfer. See Section 760.220 of this Part. By

doing so, the taxpayer is entitled to a discount of 1.75% of the tax due, or $1,250, whichever is less, provided that the electronic return and payment are made timely in accordance with this Part.

C) Liquor tax participants may file their returns and schedules using magnetic media in a format prescribed by the Department. Liquor tax participants that file returns and schedules on magnetic media are not entitled to the discount provided for in subsection (d)(3)(B) of this Section.

4) Beginning January 1, 2003, original or amended cigarette tax returns and schedules for Cigarette Tax participants may be filed electronically under the provisions of this Part.

5) Illustrations of When Paper Documents Must Be Filed

A) In the event a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).

B) In the event a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.

C) In the event the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.

(Source: Amended at 35 Ill. Reg. 16737, effective September 29, 2011)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision

2) Code Citation: 23 Ill. Adm. Code 1

3)

Section Numbers:	Adopted Action:
1.705	Amendment
1.783	New Section

4) Statutory Authority: 105 ILCS 5/2-3.6

5) Effective Date of Amendments: September 29, 2011

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: June 10, 2011; 35 Ill. Reg. 8622

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

11) Differences between proposal and final version: The introduction to Section 1.783 has been modified to provide that the requirements of that Section apply only to bilingual programs with "200 and more students" and to refer the reader to 23 Ill. Adm. Code 228.35 to review requirements for programs with fewer than 200 students.

A subheading of "Transitional Programs of Instruction" has been added to Section 1.783(b).

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.

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

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: In 2006, the State Board promulgated rules that established for the first time requirements for administrators of bilingual education programs. The rules provided that administrators have the appropriate administrative certification and hold one of several endorsements or approvals required of bilingual education teachers, with the specific endorsement or approval dependent on whether the program offered was a transitional bilingual education program (TBE) or a transitional program of instruction (TPI). These requirements were placed in 23 Ill. Adm. Code 228 (Transitional Bilingual Education).

Despite the requirements being in place since 2006, the agency again heard complaints about the deadline for compliance when Part 228 was amended in 2010. Since that time, it has become clear that a significant number of school districts have been unable to find individuals to serve in administrative positions who have the proper bilingual endorsement or approval. The changes in both Parts 1 and 23 Ill. Adm. Code 228 respond to these ongoing concerns that the current standards are both burdensome and costly.

The previous requirements have been particularly troubling for school districts with transitional bilingual education programs, wherein instruction is provided to students in their native language while they are learning English. Under those requirements, an administrator of a TBE program was required to hold either the bilingual endorsement or approval or the English as a new language endorsement with a language designation. Both of these endorsements require passage of a language examination to demonstrate proficiency in a second language.

While agency staff believe that those qualifications of administrators remain appropriate, they are sympathetic to arguments that otherwise qualified administrators often do not have the skills in a second language necessary to pass the exam. To ensure effective program implementation, however, it is more critical that the individual assigned to administer the transitional bilingual education program and who has decision-making authority is knowledgeable about the learning needs of English language learners, second language acquisition and bilingual education in order to direct the program's curriculum, instructional methodologies, assessment, data management and materials' selection. Acquisition of this knowledge is embedded in the coursework that administrators will still be required to take. To that end, new Section 1.783 offers, as an alternative to obtaining an endorsement or approval, the option for an administrator to complete coursework specific to bilingual education. A companion change also has been promulgated in Section 1.705.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

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

Robin Lisboa, Division Administrator
Division of English Language Learning
Illinois State Board of Education
100 W. Randolph Street, CH14-300
Chicago, Illinois 60601

314/814-3850

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1
PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section
1.10 Public School Accountability Framework
1.20 Operational Requirements
1.30 State Assessment
1.40 Adequate Yearly Progress
1.50 Calculation of Participation Rate
1.60 Subgroups of Students; Inclusion of Relevant Scores
1.70 Additional Indicators for Adequate Yearly Progress
1.75 Student Information System
1.77 Educator Certification System
1.80 Academic Early Warning and Watch Status
1.85 School and District Improvement Plans; Restructuring Plans
1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency Under Title III
1.90 System of Rewards and Recognition − The Illinois Honor Roll
1.95 Appeals Procedure
1.100 Waiver and Modification of State Board Rules and School Code Mandates
1.110 Appeal Process Under Section 22-60 of the School Code

SUBPART B: SCHOOL GOVERNANCE

Section
1.210 Powers and Duties (Repealed)
1.220 Duties of Superintendent (Repealed)
1.230 Board of Education and the School Code (Repealed)
1.240 Equal Opportunities for all Students
1.242 Temporary Exclusion for Failure to Meet Minimum Academic or Attendance Standards
1.245 Waiver of School Fees

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)
1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
1.270 Book and Material Selection (Repealed)
1.280 Discipline
1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section
1.310 Administrative Qualifications and Responsibilities
1.320 Evaluation of Certified Staff in Contractual Continued Service
1.330 Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section
1.410 Determination of the Instructional Program
1.420 Basic Standards
1.430 Additional Criteria for Elementary Schools
1.440 Additional Criteria for High Schools
1.445 Required Course Substitute
1.450 Special Programs (Repealed)
1.460 Credit Earned Through Proficiency Examinations
1.462 Uniform Annual Consumer Education Proficiency Test (Repealed)
1.465 Ethnic School Foreign Language Credit and Program Approval
1.470 Adult and Continuing Education
1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section
1.510 Transportation
1.515 Training of School Bus Driver Instructors
1.520 School Food Services (Repealed)
1.530 Health Services
1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section
1.610 Personnel Required to be Qualified
1.620 Accreditation of Staff (Repealed)
1.630 Noncertificated Personnel
1.640 Requirements for Different Certificates (Repealed)
1.650 Transcripts of Credits
1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section
1.705 Requirements for Supervisory and Administrative Staff
1.710 Requirements for Elementary Teachers
1.720 Requirements for Teachers of Middle Grades
1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above through June 30, 2004
1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
1.740 Standards for Reading through June 30, 2004
1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
1.750 Standards for Media Services through June 30, 2004
1.755 Requirements for Library Information Specialists Beginning July 1, 2004
1.760 Standards for Pupil Personnel Services
1.762 Supervision of Speech-Language Pathology Assistants
1.770 Standards for Special Education Personnel
1.780 Standards for Teachers in Bilingual Education Programs
1.781 Requirements for Bilingual Education Teachers in Prekindergarten, Kindergarten and any of Grades 1-12
1.782 Requirements for Teachers of English as a Second Language in Prekindergarten, Kindergarten and any of Grades 1-12
1.783 Requirements for Adminstrators of Bilingual Education Programs
1.790 Substitute Teacher

1.APPENDIX A Professional Staff Certification
1.APPENDIX B Certification Quick Reference Chart (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1.APPENDIX C	Glossary of Terms (Repealed)
1.APPENDIX D	State Goals for Learning
1.APPENDIX E	Evaluation Criteria – Student Performance and School Improvement Determination (Repealed)
1.APPENDIX F	Criteria for Determination – Student Performance and School Improvement (Repealed)
1.APPENDIX G	Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3 and 27-23.8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, 27-23.8 and 2-3.6].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006; amended at 30 Ill. Reg. 16338, effective September 26, 2006; amended at 30 Ill. Reg. 17416, effective October 23, 2006; amended at 31 Ill. Reg. 5116, effective March 16, 2007; amended at 31 Ill. Reg. 7135, effective April 25, 2007; amended at 31 Ill. Reg. 9897, effective June 26, 2007; amended at 32 Ill. Reg. 10229, effective June 30, 2008; amended at 33 Ill. Reg. 5448,

effective March 24, 2009; amended at 33 Ill. Reg. 15193, effective October 20, 2009; amended at 34 Ill. Reg. 2959, effective February 18, 2010; emergency amendment at 34 Ill. Reg. 9533, effective June 24, 2010, for a maximum of 150 days; amended at 34 Ill. Reg. 17411, effective October 28, 2010; amended at 35 Ill. Reg. 1056, effective January 3, 2011; amended at 35 Ill. Reg. 2230, effective January 20, 2011; amended at 35 Ill. Reg. 12328, effective July 6, 2011; amended at 35 Ill. Reg. 16743, effective September 29, 2011.

SUBPART G: STAFF QUALIFICATIONS

Section 1.705 Requirements for Supervisory and Administrative Staff

a) Each district superintendent shall hold an administrative certificate with a Superintendent's endorsement.

b) Each assistant superintendent, principal, or assistant principal shall hold an administrative certificate with a General Administrative, Principal or Superintendent's endorsement, except that a head teacher serving in place of a principal as permitted by Section 10-21.4a of the School Code [105 ILCS 5/10-21.4a] shall hold a teaching certificate endorsed for supervision.

c) Each general administrator (e.g., director, assistant director, coordinator, administrative assistant, or general supervisor) in general education shall hold an administrative certificate with a General Supervisory, General Administrative, Principal or Superintendent's endorsement.

d) Each head of a general education department or supervisor for a specific subject shall hold either:

1) an administrative certificate with a General Supervisory, General Administrative, Principal or Superintendent's endorsement; or

2) a teaching certificate endorsed for supervision in the area supervised.

e) Each supervisory dean shall hold an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, Principal or Superintendent's endorsement.

f) Each dean of students shall hold:

1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, Principal or Superintendent's endorsement; or

2) a teaching certificate (endorsed for supervision if the holder suspends students pursuant to Section 10-22.6 of the School Code); or

3) a school service personnel certificate endorsed for any field other than school nursing (and for supervision if the holder disciplines or suspends students).

g) Each special education director or assistant director shall meet the requirements of 23 Ill. Adm. Code 226.800(g)(2) and hold an administrative certificate endorsed for "Director of Special Education".

h) Each special education supervisor shall meet the requirements of 23 Ill. Adm. Code 226.800(h)(2) and hold either:

1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, Principal or Superintendent's endorsement and teaching qualifications in each area supervised; or

2) a teaching certificate endorsed for each area supervised and for supervision.

i) Each supervisor of more than one school service personnel area shall hold either:

1) an administrative certificate and a General Administrative, Principal or Superintendent's endorsement; or

2) a school service personnel certificate endorsed for supervision in each field supervised.

j) Each supervisor of one school service personnel area shall hold:

1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, Principal or Superintendent's endorsement; or

2) a school service personnel certificate endorsed for the field supervised and for supervision; or

3) a teaching certificate endorsed for speech-language pathology and for supervision (if applicable).

k) Each director of an area vocational center and each director or supervisor of more than one field in career and technical education (including regional system directors) shall hold an administrative certificate with a General Administrative, Principal or Superintendent's endorsement and have teaching qualifications in one of the five occupational areas and 2,000 hours of work experience outside the field of education.

l) Each supervisor of one field in career and technical education shall hold either:

1) an administrative certificate with a General Supervisory, General Administrative, Principal or Superintendent's endorsement and teaching qualifications in one field of career and technical education, including 2,000 hours of work experience in the specific field outside of education; or

2) teaching qualifications in the specific field supervised, including 2,000 hours of work experience in the specific field outside of education, and a supervisory endorsement.

m) Each administrator in a bilingual education program shall hold a valid administrative certificate or a supervisory endorsement issued on an initial or standard teaching certificate by the State Board of Education in accordance with applicable provisions of 23 Ill. Adm. Code 25 and this Part and meet the applicable requirements of Section 1.783 of this Part~~23 Ill. Adm. Code 228.35(d)~~.

n) Each chief school business official shall hold an administrative certificate and a Chief School Business Official's endorsement.

(Source: Amended at 35 Ill. Reg. 16743, effective September 29, 2011)

Section 1.783 Requirements for Administrators of Bilingual Education Programs

Beginning July 1, 2014, no individual shall be assigned to administer a bilingual education program with 200 or more students unless he or she is certified in accordance with Section 1.705(m) of this Part and meets the requirements of either subsection (a) or (b) of this Section, as applicable. Individuals assigned to administer a bilingual education program with fewer than 200 students shall meet the requirements of 23 Ill. Adm. Code 228.35(d)(2) or (3), as applicable.

a) Transitional Bilingual Education

1) A person designated to administer a transitional bilingual education program shall:

A) hold the bilingual approval or endorsement issued pursuant to Section 1.781 of this Part; or

B) hold the English as a new language endorsement issued pursuant to Section 1.782 of this Part, with a language designation; or

C) present evidence of having completed 18 semester hours distributed among the following:

i) Foundations of bilingual education,

ii) Assessment of the bilingual student,

iii) Methods and materials for teaching limited English proficient (LEP) students in bilingual programs,

iv) Methods and materials for teaching English as a Second Language, and

v) Cross-cultural studies for teaching LEP students.

2) Either linguistics (including English and non-English phonology and syntax) or bilingualism and reading shall be required in instances in which the distribution of coursework among each of the five areas in subsection (a)(1)(C) of this Section does not total 18 semester hours.

b) Transitional Program of Instruction
A person designated to administer a transitional program of instruction shall:

1) hold the bilingual approval or endorsement issued pursuant to Section 1.781 of this Part; or

2) hold the English as a second language approval or endorsement issued pursuant to Section 1.782 of this Part; or

3) hold the English as a new language endorsement issued pursuant to Section 1.782 of this Part; or

4) present evidence of having completed the coursework enumerated in subsection (a)(1)(C) of this Section, subject to the provision of subsection (a)(2).

(Source: Added at 35 Ill. Reg. 16743, effective September 29, 2011)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Certification

2) Code Citation: 23 Ill. Adm. Code 25

3)

Section Number:	Adopted Action:
25.11	Amendment
25.70	Amendment
25.100	Amendment
25.115	Amendment
25.145	Amendment
25.155	Amendment
25.275	Amendment
25.315	Amendment
25.335	Amendment
25.337	New Section
25.427	Amendment
25.485	Amendment
25.710	Amendment
25.720	Amendment
25.840	Amendment
25.APPENDIX E	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6

5) Effective Date of Amendments: September 29, 2011

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: June 10, 2011; 35 Ill. Reg. 8634

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

11) Differences between proposal and final version: The final rulemaking includes text in Sections 25.11 and 25.710 that was added by peremptory rules (35 Ill. Reg. 14663; September 2, 2011) that took effect August 22, 2011.

Section 25.100(i)(2)(c) has provided flexibility in that all of a candidate's clinical experiences, rather than just the practicum, will be considered as meeting the requirement. Further modifications clarify that a candidate must work with a total of five students.

In Section 25.115(e)(3), a nontechnical correction was made in the text of the parenthetical to make the syntax of the two examples parallel.

In Section 25.145(e), it was made clear that it is the recognized institution that proposes an educator preparation program rather than the program itself.

In Appendix E, the term "physiography" was removed from the "Social Sciences" column and placed next to "Physical Geography". Additionally, the date that the general administrative certificate would no longer be issued was moved from the third column to the first.

In Section 25.485, new subsection (d) was added to more clearly address the waiting period for individuals wishing to submit an application for new certificate or endorsement or for renewal, if the suspended certificate was allowed to lapse during the term of the suspension. These requirements were contained in subsection (c).

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

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

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

15) Summary and Purpose of Amendments: An explanation of the amendments to each section of the rulemaking is presented in the order in which they appear in the rulemaking.

Subpart B: Certificates: The changes included in this Subpart are clarifications of existing requirements. In Section 25.11(e), regarding evidence of teaching experience for the receipt of a standard teaching certificate, acknowledgement is being made of the use

of records contained in the State Board of Education's electronic Educator Certification System for teachers employed in public schools.

In Section 25.70, new subsection (r) repeats requirements relative to certificate renewal that are found in Section 25.830(a) to clarify that at the time of renewal, any other certificate that an individual with the provisional vocational certificate holds – including additional provisional certificates – are to be renewed at the same time, regardless of whether they are due to expire.

Additionally, clarification has been made in Sections 25.11(c)(3) and 25.70(p) as to the one-year validity period for a certificate that has been reinstated due to the holder's failure to complete required renewal activities and to provide that the certificate's "reinstatement year" begins immediately, i.e., on July 1 of the year in which the certificate expires. (Also see Sections 25.275(p), 25.315(e)(5) and 25.840(c)(1).)

In Section 25.100(i)(1)(A) and (2)(C), criteria specific to the required reading practicum have been added, and these reflect the standards currently used by agency evaluators in their review of applications for these endorsements. A technical correction has been made in Section 25.100(h).

Subpart C: Approving Programs that Prepare Professional Educators in the State of Illinois: Changes in Subpart C address a provision that will allow out-of-state colleges and universities not subject to operating authority by the Illinois Board of Higher Education to be considered for recognition and program approval, provided they meet the criteria stated in the rule.

Both Sections 25.115 and 25.145 were modified to consider in the approval process an institution's online coursework, as well as the focus of the preparation program and the need for educators in that area (e.g., special education, science, math). Consideration of these elements is essential to ensure the provision of high-quality preparation programs that adequately train potential educators, and ensure that programs do not exacerbate teacher shortages and mislead candidates about their potential of securing employment.

A minor change in Section 25.155 corrects the timeline for notification by the State Board of Education of a review visit for an institution and any of its educational units that are seeking recognition.

Subpart E: Requirements for the Certification of Administrative and Supervisory Staff: Section 25.335 and new Section 25.337 address the new principal endorsement that will

replace the general administrative endorsement beginning July 1, 2014. In particular, Section 25.337 contains criteria for determining when an out-of-state candidate has met the requirements for the principal endorsement set forth in Part 30 (Programs for the Preparation of Principals in Illinois). This language is specific to principal preparation and has been added in response to concerns that the Joint Committee on Administrative Rules raised in a recommendation to 23 Ill. Adm. Code 30 about the program "comparability" language currently found in Section 25.425.

Subpart F: General Provisions: Changes in Section 25.427 reduce from three years to one year the validity period for the agency's consideration of an evaluation for issuing a certificate or a recommendation for certification by entitlement provided by the institution. The change will ensure that at the time a candidate receives certification, he or she met the standards currently required of educator preparation programs and that candidates' skills and knowledge are up to date and relevant to the classroom and school settings.

Additional clarification has been provided in Section 25.485 relative to the conditions upon which an application will be accepted from an individual with a previous denial or suspension by imposing a waiting period to run from the date the denial or suspension took effect. An application from an individual whose certificate was revoked either in Illinois or another state will not be accepted. Further, explicit language is included about the nonrefundable nature of the application fee in the event of a denial and of the right to appeal the denial in accordance with the Illinois Administrative Procedure Act and agency rules governing contested cases and formal hearings (23 Ill. Adm. Code 475).

Subpart I: Illinois Certification Testing System and Appendix E: References to several new tests and endorsements have been added in Section 25.710. A change also has been made to the effective date in Section 25.720(h), which limits a candidate to only five opportunities to pass a test, as the rules including this requirement did not take effect until January 12, 2010. The change is needed since a test administration occurred on January 9 of that year, and individuals sitting for any tests administered on that day are not subject to the limitation.

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

Linda Jamali, Division Administrator
Division of Educator Certification
Illinois State Board of Education
100 North First Street

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Springfield, Illinois 62777

217/524-1373

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 25
CERTIFICATION

SUBPART A: DEFINITIONS

Section
25.10 Accredited Institution

SUBPART B: CERTIFICATES

Section
25.11 New Certificates (February 15, 2000)
25.15 Standards for Certain Certificates (Repealed)
25.20 Requirements for the Elementary Certificate (Repealed)
25.22 Requirements for the Elementary Certificate (2004) (Repealed)
25.25 Requirements for "Full" Certification
25.30 Endorsement in Teacher Leadership
25.32 Requirements for the Secondary Certificate (2004) (Repealed)
25.35 Acquisition of Subsequent Certificates; Removal of Deficiencies (Repealed)
25.37 Acquisition of Subsequent Teaching Certificates (2004)
25.40 Requirements for the Special Certificate (Repealed)
25.42 Requirements for the Special Certificate (2004) (Repealed)
25.43 Standards for Certification of Special Education Teachers
25.45 Standards for the Initial Special Preschool-Age 12 Certificate – Speech and Language Impaired
25.46 Special Provisions for the Learning Behavior Specialist I Endorsement
25.47 Special Provisions for the Learning Behavior Specialist I Approval
25.48 Short-Term Emergency Certification in Special Education
25.50 General Certificate (Repealed)
25.60 State Special Certificate, Grades 11-12, For Teaching Elective Subjects (Repealed)
25.65 Alternative Certification
25.67 Alternative Route to Teacher Certification
25.70 Provisional Vocational Certificate

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

25.72 Temporary Provisional Vocational Certificate
25.75 Part-time Provisional Certificates
25.80 Requirements for the Early Childhood Certificate (Repealed)
25.82 Requirements for the Early Childhood Certificate (2004) (Repealed)
25.85 Special Provisions for Endorsement in Foreign Language for Individuals Currently Certified
25.86 Special Provisions for Endorsement in Foreign Language for Individuals Prepared as Teachers But Not Currently Certified
25.90 Transitional Bilingual Certificate and Examination
25.92 Visiting International Teacher Certificate
25.95 Majors, Minors, and Separate Fields for the Illinois High School Certificate (Repealed)
25.99 Endorsing Teaching Certificates (Repealed)
25.100 Endorsing Teaching Certificates (2004)
25.105 Temporary Substitute Teaching Permit

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

Section
25.110 System of Approval: Levels of Approval (Repealed)
25.115 Recognition of Institutions and Educational Units, and Approval of Programs
25.120 Standards and Criteria for Institutional Recognition and Program Approval (Repealed)
25.125 Accreditation Review of the Educational Unit (Repealed)
25.127 Review of Individual Programs (Repealed)
25.130 Interventions by the State Board of Education and State Teacher Certification Board
25.135 Interim Provisions for Continuing Accreditation and Approval – July 1, 2000, through Fall Visits of 2001 (Repealed)
25.136 Interim Provisions for Continuing Accreditation – Institutions Visited from Spring of 2002 through Spring of 2003 (Repealed)
25.137 Interim Provisions for Continuing Accreditation and Approval – July 1, 1999, through June 30, 2000 (Repealed)
25.140 Requirements for the Institution's Educational Unit Assessment Systems
25.142 Assessment Requirements for Individual Programs
25.145 Approval of New Programs Within Recognized Institutions
25.147 Approval of Programs for Foreign Language Beginning July 1, 2003
25.150 The Periodic Review Process (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

25.155 Procedures for the Initial Recognition of an Institution as an Educator Preparation Institution and Its Educational Unit25.160 Notification of Recommendations; Decisions by State Board of Education
25.165 Discontinuation of Programs

SUBPART D: SCHOOL SERVICE PERSONNEL

Section
25.200 Relationship Among Credentials in Subpart D
25.210 Requirements for the Certification of School Social Workers (Repealed)
25.215 Certification of School Social Workers (2004)
25.220 Requirements for the Certification of Guidance Personnel (Repealed)
25.225 Certification of School Counselors (2004)
25.227 Interim Certification of School Counselor Interns (2004)
25.230 Requirements for the Certification of School Psychologists (Repealed)
25.235 Certification of School Psychologists (2004)
25.240 Standard for School Nurse Endorsement (Repealed)
25.245 Certification of School Nurses (2004)
25.250 Standards for Non-Teaching Speech-Language Pathologists
25.252 Certification of Non-Teaching Speech-Language Pathologists
25.255 Interim Certification of Speech-Language Pathologist Interns
25.275 Renewal of the School Service Personnel Certificate

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF ADMINISTRATIVE AND SUPERVISORY STAFF

Section
25.300 Relationship Among Credentials in Subpart E
25.310 Definitions (Repealed)
25.311 Administrative Certificate (Repealed)
25.313 Alternative Route to Administrative Certification
25.314 Alternative Route to Administrative Certification for Teacher Leaders
25.315 Renewal of Administrative Certificate
25.320 Application for Approval of Program (Repealed)
25.322 General Supervisory Endorsement (Repealed)
25.330 Standards and Guide for Approved Programs (Repealed)
25.333 General Administrative Endorsement (Repealed)
25.335 General Administrative Endorsement (Through June 30, 2014)
25.337 Principal Endorsement (2012)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

25.338 Designation as Master Principal
25.344 Chief School Business Official Endorsement (Repealed)
25.345 Chief School Business Official (2004)
25.355 Superintendent Endorsement (Repealed)
25.360 Superintendent (2004)
25.365 Director of Special Education

SUBPART F: GENERAL PROVISIONS

Section
25.400 Registration of Certificates; Fees
25.405 Military Service
25.410 Revoked Certificates
25.415 Credit in Junior College (Repealed)
25.420 Psychology Accepted as Professional Education (Repealed)
25.425 Individuals Prepared in Out-of-State Institutions
25.427 One-Year~~Three-Year~~ Limitation
25.430 Institutional Approval (Repealed)
25.435 School Service Personnel Certificate – Waiver of Evaluations (Repealed)
25.437 Equivalency of General Education Requirements (Repealed)
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AUTHORITY: Implementing Article 21 and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, 14C-8, and 2-3.6].

SOURCE: Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg. 1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10 Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022, effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 11767, effective June 25, 1998; amended at 22 Ill. Reg. 19745, effective October 30, 1998; amended at 23 Ill. Reg. 2843, effective February 26, 1999; amended at 23 Ill. Reg. 7231, effective June 14, 1999; amended at 24 Ill. Reg. 7206, effective May 1, 2000; emergency amendments at 24 Ill. Reg. 9915, effective June 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12930, effective August 14, 2000; peremptory

amendment at 24 Ill. Reg. 16109, effective October 12, 2000; peremptory amendment suspended at 25 Ill. Reg. 3718, effective February 21, 2001; peremptory amendment repealed by joint resolution of the General Assembly, effective May 31, 2001; emergency amendments at 25 Ill. Reg. 9360, effective July 1, 2001, for a maximum of 150 days; emergency expired November 27, 2001; emergency amendments at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16031, effective November 28, 2001; amended at 26 Ill. Reg. 348, effective January 1, 2002; amended at 26 Ill. Reg. 11867, effective July 19, 2002; amended at 26 Ill. Reg. 16167, effective October 21, 2002; amended at 27 Ill. Reg. 5744, effective March 21, 2003; amended at 27 Ill. Reg. 8071, effective April 28, 2003; emergency amendments at 27 Ill. Reg. 10482, effective June 26, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 12523, effective July 21, 2003; amended at 27 Ill. Reg. 16412, effective October 20, 2003; emergency amendment at 28 Ill. Reg. 2451, effective January 23, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 8556, effective June 1, 2004; emergency amendments at 28 Ill. Reg. 12438, effective August 20, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1212, effective January 4, 2005; amended at 29 Ill. Reg. 10068, effective June 30, 2005; amended at 29 Ill. Reg. 12374, effective July 28, 2005; emergency amendment at 29 Ill. Reg. 14547, effective September 16, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 15831, effective October 3, 2005; amended at 30 Ill. Reg. 1835, effective January 26, 2006; amended at 30 Ill. Reg. 2766, effective February 21, 2006; amended at 30 Ill. Reg. 8494, effective April 21, 2006; amended at 31 Ill. Reg. 10645, effective July 16, 2007; amended at 32 Ill. Reg. 3413, effective February 22, 2008; amended at 32 Ill. Reg. 13263, effective July 25, 2008; emergency amendment at 32 Ill. Reg. 18876, effective November 21, 2008, for a maximum of 150 days; amended at 33 Ill. Reg. 5462, effective March 24, 2009; amended at 34 Ill. Reg. 1582, effective January 12, 2010; amended at 34 Ill. Reg. 15357, effective September 21, 2010; amended at 35 Ill. Reg. 4315, effective February 23, 2011; peremptory amendment at 35 Ill. Reg. 14663, effective August 22, 2011; amended at 35 Ill. Reg. 16755, effective September 29, 2011.

SUBPART B: CERTIFICATES

Section 25.11 New Certificates (February 15, 2000)

Section 21-2 of the School Code [105 ILCS 5/21-2] established a new system of teaching certificates effective February 15, 2000. A complete list of the certificates that were available as of that date is found in Appendix B to this Part. The transition to the new system affects certified individuals and candidates for certification as set forth in this Section. No certificate-holder shall be penalized in the exchange of certificates. That is, upon exchange, each individual shall receive all the credentials he or she held prior to that time. Each endorsement held by a

certificate-holder prior to February 15, 2000, shall be recorded on the appropriate certificate received pursuant to this Section.

a) Special Education
Except as provided in Sections 25.46, 25.47, and 25.48 of this Part, qualifications accepted for particular teaching assignments prior to February 15, 2000, shall continue to be acceptable for those assignments. Special provisions apply to the exchange of certificates by individuals who are special education teachers as defined in Section 25.807 of this Part or who hold credentials that qualify them to serve as special education teachers.

1) Any individual whose certificate is due to be exchanged as of July 1, 2002, shall have the option of making the exchange as of July 1, 2001.

2) Any speech-language pathologist who exchanged a certificate pursuant to this subsection (a) prior to July 1, 2001, shall be permitted to exchange the standard certificates so received for a school service personnel certificate endorsed for non-teaching speech-language pathology, provided that he or she requests this exchange on or before June 30, 2002, to be effective July 1, 2002. No additional registration fee shall be owed for the exchange, and the certificate received shall be valid until the date on which the standard teaching certificates surrendered in the exchange would have expired.

3) Any speech-language pathologist who exchanges a certificate pursuant to this subsection (a) on or after July 1, 2001, may choose to receive:

A) a standard special preschool-age 21 certificate endorsed for speech-language pathology;

B) both a standard elementary and a standard secondary certificate endorsed for speech-language pathology; or

C) a school service personnel certificate endorsed for non-teaching speech-language pathology.

4) In the event that a certificate exchanged pursuant to subsection (a)(2) or (3) of this Section bears one or more other endorsements, it shall be re-issued minus the speech-language pathology endorsement.

5) For purposes of this subsection (a), the term "speech-language pathologist" includes individuals holding endorsements or approvals for "speech correction" issued before 1980, as well as individuals holding endorsements for "speech and language impaired".

b) Holders of certain Illinois teaching certificates received, or shall receive, corresponding standard teaching certificates. Certificates subject to exchange are listed in Appendix C to this Part; see also Sections 25.400 and 25.450 of this Part. Out-of-state candidates who qualify for Illinois teaching certificates pursuant to Section 25.425 of this Part and who pass the applicable examinations (see Section 25.720 of this Part) shall receive either initial or standard teaching certificates, and, except as provided in subsection (b)(3) of this Section, those who receive initial certificates shall be subject to the requirements of subsection (d) of this Section in terms of their subsequent receipt of standard teaching certificates. An out-of-state applicant who does not qualify for an initial or standard certificate may qualify to receive a provisional certificate subject to the provisions of Section 21-10 of the School Code [105 ILCS 5/21-10].

1) *Standard certificates will be issued to candidates who present evidence of at least four years of teaching experience on a valid certificate issued by a state, territory, or possession of the United States*. (Section 21-2(b-5) of the School Code [105 ILCS 5/21-2(b-5)])

2) Initial certificates will be issued to qualified candidates with fewer than four years of teaching experience.

A) A recipient of an initial certificate pursuant to this subsection (b)(2) shall be eligible to apply for a comparable standard certificate when he or she has accumulated a total of four years' teaching experience on a valid certificate, including the time taught outside Illinois.

B) Pursuant to Section 21-2(b-5) of the School Code, the 12 semester hours of graduate-level coursework needed to complete the option discussed in Section 25.905(d) of this Part and the 60 continuing professional development units (CPDUs) needed to complete the option discussed in Section 25.905(e) of this Part *shall be reduced in proportion to the amount of teaching time a candidate needs to*

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

C) Beginning on July 1, 2003, to qualify for an initial teaching certificate endorsed in any of the special education areas established in 23 Ill. Adm. Code 28 (Standards for Certification in Special Education), the subject matter assessment shall be a valid and reliable examination based on mastery of the relevant standards set forth in that Part. The State Board of Education shall take all necessary steps to ensure that the examination for the Learning Behavior Specialist I endorsement shall be developed and available for use no later than January 1, 2003.

3) *The requirements of Subpart K of this Part shall not apply to an individual who holds a second-tier certificate from another state.* (Section 21-2(b-5) of the School Code) A "second-tier certificate" is one that is issued after a teacher has:

A) held a prerequisite teaching certificate that was valid for the same area or areas of assignment, other than an emergency, provisional, or substitute certificate; and

B) met specified additional requirements for professional development or induction to the profession of teaching.

4) Certificates will be endorsed in accordance with the provisions of Sections 25.100 and 25.425 of this Part.

c) A candidate completing an approved Illinois teacher preparation program may qualify for an initial teaching certificate by passing the applicable examinations (see Section 25.720 of this Part).

d) An individual who has completed four years of teaching on an initial certificate (or on another certificate that was issued in conjunction with an initial certificate) may qualify for a comparable standard certificate as set forth in Subpart K of this Part.

1) All endorsements shall be carried forward from an initial to the

comparable standard certificate.

2) *A holder of an initial certificate who has not completed four years of teaching within four years may renew and register the certificate for additional four-year periods without limitation.* (Section 21-14(b) of the School Code [105 ILCS 5/21-14(b)])

3) A candidate who has taught for four years on an initial certificate but has not met the requirements of Subpart K of this Part may not receive another comparable initial teaching certificate. For example, a holder of an initial elementary certificate will not be eligible to receive another initial elementary certificate. *However, such an individual may receive a reinstated certificate, valid for one year,* as defined in Section 25.450(c) of this Part, *during which he or she may complete the option chosen as a means of qualifying for the standard teaching certificate.* (Section 21-14(b) of the School Code) The reinstatement period shall begin July 1 of the year in which the initial certificate expires. No initial certificate-holder may receive a reinstated certificate more than once pursuant to this subsection (d)(3).

4) When an individual completes four years of teaching experience on an initial certificate, that certificate shall become invalid on the following June 30.

e) A holder of an Illinois teaching certificate who has teaching experience on a valid certificate as required by Section 21-11.2 of the School Code [105 ILCS 5/21-11.2] may receive an additional certificate of another type as set forth in Section 25.37 of this Part, unless the additional certificate is to be issued based on comparable out-of-state certification. Once an individual has received a standard teaching certificate, any other subsequently issued early childhood, elementary, secondary, special K-12, or special preschool-age 21 certificate shall also be a standard certificate, with the exception of any master certificate for which the individual also qualifies.

f) "Four years of teaching experience" means the equivalent of four years' full-time employment, i.e., eight semesters of scheduled full-time teaching, which may, however, be accumulated in any combination of increments. That is, it need not be accumulated through full-time teaching. To permit timely processing of applications for standard certificates, the State Superintendent of Education may

accept applications from individuals who are at least midway through their final semester of required teaching experience, provided that each such individual submits either data obtained from the State Board of Education's electronic recording system for teachers employed in Illinois public schools or a letter that otherwise meets the requirements of subsection (g) of this Section but indicates that:

1) the individual has completed 3½ years of teaching plus the required portion of the final semester; and

2) the representative of the employing entity knows of no reason why the individual will not complete four years of teaching experience during the then-current semester.

g) "Evidence of teaching experience" may be satisfied in one of the following ways.

1) Verification of the teacher's experience obtained from the State Board of Education's electronic recording system for teachers employed in Illinois public schools.

2) By submission of~~means~~ a letter signed by the chief administrator or other designated official of the employing school district or nonpublic school (or other employing entity, if applicable to the holder of an early childhood certificate; also see subsection (g)(4) of this Section) documenting the nature and duration of the candidate's teaching.

3) A letter signed by an official of the state education agency in another state may be substituted for an employer's letter when the latter cannot be secured.

4) Early childhood teaching experience shall be understood as contributing to the fulfillment of this requirement if gained in a position for which an early childhood certificate was required pursuant to the rules of the State Board of Education at 23 Ill. Adm. Code 235 (Early Childhood Block Grant).

5) Experience gained while teaching in a home school shall not be applicable to the fulfillment of this requirement.

h) For purposes of this Section, "valid certificate" means a certificate equivalent to an Illinois master, standard, initial, or provisional early childhood, elementary, secondary, or special certificate.

i) Upon application, a holder of certification issued by the National Board for Professional Teaching Standards (NBPTS) shall be issued a comparable Illinois master certificate. Endorsements comparable to those held by the individual shall appear on the master certificate. The State Board shall make available the list of NBPTS certifications for which Illinois master credentials are available and shall update that list as the NBPTS expands its areas of certification.

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

Section 25.70 Provisional Vocational Certificate

a) Each applicant for a provisional vocational certificate shall present evidence of having completed 60 semester hours of college coursework from a regionally accredited institution and 2,000 hours of work experience outside the field of education in each area to be taught. The required evidence of this work experience shall be written statements from former supervisors who can be reached for verification or, in cases in which supervisors are no longer available to verify the individual's employment, affidavits by the applicant describing the work experience.

b) Each provisional vocational certificate issued on or after July 1, 2009 shall be valid for five years and shall be renewable contingent upon the certificate-holder's fulfillment of the applicable requirements set forth in this Section.

c) Each provisional vocational certificate issued on or before June 30, 2009 shall be valid for five years from the date of issue or the date of its most recent registration, whichever is later. When any such certificate is next registered after June 30, 2009, the registration shall be for a five-year period of validity, and renewal of the certificate after that five-year period shall be contingent upon the certificate-holder's fulfillment of the applicable requirements of this Section.

d) For purposes of this subsection (d), coursework shall be considered "related to education" if it leads to teaching, administrative, or school service personnel certification or endorsement or if it relates to the field of an individual's current

teaching assignment or any other field of teaching assignment. Each affected certificate-holder shall complete:

1) eight semester hours of undergraduate or graduate-level coursework related to education, of which no fewer than two semester hours must address advancing the certificate-holder's knowledge and skills as a teacher in relation to the Illinois Professional Teaching Standards (see 23 Ill. Adm. Code 24.100) and the content-area standards in his or her area of certification, endorsement, or assignment; or

2) 120 continuing professional development units (CPDUs) in accordance with Section 25.875 of this Part; or

3) any combination of the types of activities described in subsections (a)(1) and (2) of this Section, provided that the total effort represents the equivalent of 120 CPDUs, and provided that one semester hour of college credit shall be considered the equivalent of 15 CPDUs; or

4) an advanced degree from a regionally accredited institution in an education-related field; or

5) all required activities in pursuit of certification or recertification by the National Board for Professional Teaching Standards (NBPTS); or

6) four semester hours of graduate-level coursework on the assessment of one's own performance in relation to the Illinois Professional Teaching Standards; or

7) four semester hours of graduate-level coursework in preparation for meeting the requirements for certification by the National Board for Professional Teaching Standards.

e) Each professional development activity used to fulfill the requirements of this Section, other than those identified in subsections (d)(4)-(7) of this Section, shall be required to address one or more of the purposes identified for the renewal of standard and master certificates in Section 21-14(e)(2) of the School Code [105 ILCS 5/21-14(e)(2)]. At least 20 percent of the units required must address the purpose identified in Section 21-14(e)(2)(E) of the School Code.

f) CPDUs shall be generated for completion of activities in accordance with provisions of Section 25.875 of this Part, provided that the activity described in subsection (h) of that Section shall not be used to generate CPDUs for holders of the provisional vocational certificate and references to Section 21-14 of the School Code [105 ILCS 5/21-14] are not applicable in the case of the provisional vocational certificate.

g) The provisions of Sections 25.855, 25.860, 25.865, and 25.872 of this Part shall apply to the awarding of CPDUs for activities offered by providers, provided that:

1) the references to Section 21-14 of the School Code are not applicable to the provisional vocational certificate; and

2) references to Subpart J of this Part shall be understood as referring to this Section where necessary to the context.

h) Each provisional vocational certificate shall be maintained as "valid and active" or "valid and exempt" for each semester of its validity. Periods of exemption and proportionate reductions in the requirements for continuing professional development shall be determined as discussed in Section 25.880(a) of this Part. In addition, the number of continuing professional development units needed to renew the certificate shall be reduced by 50 percent for any amount of time during which the certificate-holder has been employed and performing services on a part-time basis, i.e., for less than 50 percent of the school day or school term.

i) Credit earned for any activity that is completed (or for which the certificate-holder receives evidence of completion) on or after April 1 of the final year of a certificate's validity, if not claimed with respect to that period of validity, may be carried over and claimed in the subsequent period of validity, provided that the activity in question is relevant to the requirements that apply to that period.

j) Each certificate-holder shall:

1) maintain the required form of evidence of completion for each activity throughout the period of validity that follows the renewal of the certificate based on completion of the activities documented; and

2) present the evidence of completion upon request by the regional superintendent or a representative of the State Board of Education or if required as part of an appeal under Section 25.840 of this Part.

k) Each holder of a provisional vocational certificate shall apply for renewal of that certificate as set forth with respect to standard teaching certificates in Section 25.830 of this Part, including the submission of a statement of assurance that conforms to the requirements of subsection (b) of that Section, except that:

1) each application for certificate renewal shall be submitted to the regional superintendent of schools, regardless of whether a local professional development committee is in operation in the employing district; and

2) references to standard certificates in that Section shall be understood to apply to provisional vocational certificates as necessary to the context.

l) Within 14 days after receiving an application for the renewal of a provisional vocational certificate, the regional superintendent shall forward to the State Teacher Certification Board a recommendation for renewal or nonrenewal on a form prescribed by the State Superintendent of Education.

1) The regional superintendent shall transmit a list identifying all the certificate-holders with respect to whom the regional superintendent is recommending renewal of provisional vocational certificates, along with verification that:

A) each certificate-holder has completed professional development or otherwise qualifies for certificate renewal in accordance with this Section; and

B) each certificate-holder has submitted the statement of assurance required in accordance with subsection (k) of this Section.

2) If the recommendation is not to renew the certificates held, or if information provided on the application makes the individual subject to the requirements of any of Sections 25.485 through 25.490 of this Part, the certificate-holder's copy shall be sent concurrently by certified mail, return receipt requested. Each recommendation for nonrenewal shall include the regional superintendent's rationale.

m) A certificate-holder with respect to whom a regional superintendent has recommended nonrenewal of the provisional vocational certificate may appeal to the State Teacher Certification Board in accordance with the provisions of Section 25.835(h) of this Part, except that references to the requirements of Section 21-14 of the School Code shall not apply in the case of the provisional vocational certificate.

n) The State Teacher Certification Board shall review regional superintendents' recommendations regarding the renewal of provisional vocational certificates and notify the affected certificate-holders in writing as to whether their certificates have been renewed or not renewed. This notification shall take place within 90 days after the State Teacher Certification Board receives regional superintendents' recommendations, subject to the right of appeal set forth in this subsection (n).

1) Within 60 days after receipt of an appeal filed by a certificate-holder challenging a regional superintendent's recommendation for nonrenewal, the State Teacher Certification Board shall hold an appeal hearing. The Board shall notify the certificate-holder of the date, time, and place of the hearing.

2) The certificate-holder shall submit to the State Teacher Certification Board such additional information as the Certification Board determines is necessary to decide the appeal.

3) The State Teacher Certification Board may request that the certificate-holder appear before it. The certificate-holder shall be given at least ten days' notice of the date, time, and place of the hearing.

4) In verifying whether the certificate-holder has met the renewal criteria set forth in this Section, the State Teacher Certification Board shall review the recommendation of the regional superintendent of schools and all relevant documentation.

o) The State Teacher Certification Board shall notify the certificate-holder in writing, within seven days after completing its review, as to whether the certificate has been renewed. Upon receipt of notification of renewal, the certificate-holder shall pay the applicable registration fee to the regional superintendent. If the decision is not to renew the certificate, the notice to the

certificate-holder shall be transmitted by certified mail, return receipt requested, and shall state the reason for the decision. The decision of the State Teacher Certification Board is final and subject to administrative review as set forth in Section 21-24 of the School Code [105 ILCS 5/21-24].

p) An individual whose certificate is not renewed because of his or her failure to meet the requirements of this Section may apply for a reinstated certificate valid for one year, as defined in Section 25.450(c) of this Part. The reinstatement period shall begin July 1 of the year in which the certificate expires. After the one-year period of validity of the reinstated certificate, the individual shall receive a renewable provisional vocational certificate only if he or she presents evidence of having:

1) completed the balance of the professional development activities that were required for renewal of the certificate previously held; and

2) earned five additional semester hours of credit from a regionally accredited institution of higher learning relevant to the field of certification.

q) The provisions of Section 25.840(d) of this Part shall apply to the renewal of the provisional vocational certificate.

r) The application for renewal shall identify by certificate number all the certificates the person holds, including any certificate that was issued after the beginning of the validity period of the provisional vocational certificate being renewed and is therefore not yet due to expire.

1) If the provisional vocational certificate that is due to expire is renewed, then any more recently issued certificates, including additional provisional vocational certificates, shall be renewed at the same time, thereby establishing the same five-year period of validity for all the certificates held.

2) If the provisional vocational certificate that is due to expire is not renewed, the original period of validity of any more recently issued certificate shall continue to apply to that certificate only.

s) An individual who performs services on a provisional vocational certificate and concurrently also on some other type of certificate that is subject to renewal requirements shall be subject to the provisions of Section 25.475 of this Part.

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

Section 25.100 Endorsing Teaching Certificates (2004)

Beginning July 1, 2004, the structure of endorsements available on Illinois certificates was changed. Appendix E to this Part provides a list of the available endorsements, other than the endorsements in special education that are the subject of federal court orders of February 27 and August 15, 2001, in the matter of Corey H., et al., v. Board of Education of the City of Chicago, et al. Appendix E shows for each new endorsement the related endorsements that were previously issued and were discontinued or replaced. Any semester hours of credit presented toward fulfillment of the requirements of this Section may be earned in on-line or electronically-mediated courses, provided that college credit is awarded for the coursework by a regionally accredited institution of higher education. All professional education and content-area coursework that forms part of an application for certification, endorsement, or approval that is received on or after February 1, 2012, must have been passed with a grade no lower than "C" or equivalent in order to be counted towards fulfillment of the applicable requirements.

a) Subject-area "designations" shall be required in conjunction with some endorsements, as shown in Appendix E to this Part. Except in the case of foreign language, a certificate-holder shall be authorized to teach all the subjects encompassed by a particular endorsement, regardless of the designation or designations received in conjunction with that endorsement. However, a certificate-holder may not teach honors courses, as these are defined by the employing district, or Advanced Placement courses in a subject for which he or she does not hold the specific designation, unless he or she holds an applicable master certificate. For example, a secondary science teacher with a biology designation may not teach honors physics or chemistry unless he or she holds a master certificate endorsed for sciences.

b) Endorsements at Time of Issuance
Pursuant to Section 21-1b of the School Code [105 ILCS 5/21-1b], *all certificates initially issued under this Article…shall be specifically endorsed by the State Board of Education for each subject the holder of the certificate is legally qualified to teach*.

1) For each application for certification received on or before September 30, 2004, the certificate issued shall be endorsed in keeping with the program completed and the related test passed by the candidate, as well as for any additional subject in which the candidate completed the required coursework.

2) For each application received on or after October 1, 2004, but no later than January 31, 2012, the certificate issued shall be endorsed in keeping with the program completed and the related content-area test or test of subject matter knowledge passed by the candidate and, except as provided in subsections (g), (h), (i), (j), (k), and (m) of this Section:

   A) any additional area in which the individual has completed a major area of concentration, totaling 32 semester hours or as otherwise identified by a regionally accredited institution on the individual's official transcript; and

   B) any additional area in which the individual presents evidence of having accumulated 24 semester hours of college credit demonstrably related to the subject area, either as a subset of an approved program at an Illinois institution or from one or more regionally accredited institutions of higher education, and has passed the applicable content-area test (or test of subject matter knowledge); and

   C) any additional area for which the individual has met the applicable requirements of subsection (e) of this Section.

3) For each application received on or after February 1, 2012, the certificate issued shall be endorsed in keeping with the program completed and the related content-area test or test of subject matter knowledge passed by the candidate and for any other subject in which the individual:

   A) meets the requirements of subsection (e), (g), (h), (i), (j), (k), (m), or (n) of this Section; or

   B) has accumulated 24 semester hours of college credit demonstrably related to the subject area, either as a subset of an approved program at an Illinois institution or from one or more regionally

accredited institutions of higher education, with at least 12 semester hours at the upper-division or graduate level, as defined by the institution offering the coursework, and has passed the applicable content-area test.

c) Pursuant to Section 21-4 of the School Code [105 ILCS 5/21-4], an individual who is eligible to receive a special certificate may elect to receive both an elementary and a secondary certificate, each endorsed as the special or special preschool-age 21 certificate would have been endorsed. An individual who elects to hold a special certificate may add endorsements to it by submitting an application pursuant to Section 21-12 of the School Code and demonstrating that he or she has met the applicable requirements of subsection (f)(3) of this Section.

d) Endorsements issued under the system used prior to July 1, 2004, shall continue to be valid only for the specific subjects covered. An individual who wishes to teach other subjects in the same field shall be required to apply for the relevant new endorsement in keeping with Section 21-12 of the School Code and meet the applicable requirements of this Section.

e) Each endorsement or designation indicated by an asterisk in Appendix E to this Part has no corresponding content-area test. The provisions of this subsection (e) shall apply to the issuance of these endorsements and designations.

1) For an applicant who is receiving an Illinois teaching certificate, the institution that offered the approved program completed by the applicant shall indicate that the applicant has met the standards applicable to the endorsement or the particular designation, except that the requirements of subsection (n) of this Section shall apply to the issuance of endorsements in safety and driver education beginning with applications received on or after February 1, 2012.

2) An applicant prepared out of state, or an applicant who is already certified in Illinois and is seeking to add a new endorsement or designation in one of these subjects, other than an endorsement in safety and driver education, shall:

A) present verification from an institution with an approved teacher preparation program that he or she is prepared in the area covered by the endorsement or designation sought; or

B) present evidence of completion of nine semester hours of coursework in the area covered by the endorsement or designation sought; or

C) present evidence of at least one year's teaching experience on a valid certificate in the area covered by the endorsement or designation sought.

3) An applicant prepared out of state or an applicant who is already certified in Illinois and is seeking to add a new endorsement in safety and driver education shall be subject to the requirements set forth at 23 Ill. Adm. Code 1.730(q) through January 31, 2012. Beginning with applications received on or after February 1, 2012, the requirements stated in subsection (n) of this Section shall apply.

f) Addition of Endorsements to Previously Issued Certificates
Individuals seeking to endorse previously issued certificates shall apply for such endorsements, using a format specified by the State Superintendent of Education, in accordance with the provisions of Section 21-12 of the School Code [105 ILCS 5/21-12].

1) When an applicant qualifies for an endorsement, its issuance shall be reflected on the electronic certification system that is maintained by the State Superintendent of Education for use by applicants, school districts, and regional superintendents of schools.

2) Except as provided in subsections (g), (h), (i), (j), (k), and (m) of this Section, for applications received on or after July 1, 2005, but no later than January 31, 2012, an endorsement will be issued to each applicant who:

A) has completed a major area of concentration, totaling 32 semester hours or as otherwise identified by a regionally accredited institution on the individual's official transcript; or

B) presents evidence of having accumulated 24 semester hours of college credit demonstrably related to the subject area, either as a subset of an approved program at an Illinois institution or from one or more regionally accredited institutions of higher education, and

has passed the applicable content-area test (or test of subject matter knowledge); or

C) has met the applicable requirements of subsection (e) of this Section.

3) For applications received on or after February 1, 2012, an endorsement will be issued for any subject in which the individual:

A) meets the requirements of subsection (e), (g), (h), (i), (j), (k), (m), or (n) of this Section; or

B) has accumulated 24 semester hours of college credit demonstrably related to the subject area, either as a subset of an approved program at an Illinois institution or from one or more regionally accredited institutions of higher education, with at least 12 semester hours at the upper-division or graduate level, as defined by the institution offering the coursework, and has passed the applicable content-area test.

g) Special provisions shall apply to the addition of endorsements in self-contained general education. An individual who holds a secondary, special K-12, or special preschool-age 21 certificate, or an individual who holds an elementary certificate endorsed in some other field by virtue of having "split" a special or special preschool-age 21 certificate, may qualify for the endorsement in self-contained general education on that certificate only by completing an approved program for the elementary certificate in accordance with Section 25.37 of this Part and passing the elementary/middle grades test. Fulfillment of these requirements qualifies the individual for an elementary certificate with this endorsement. However, an individual with an early childhood or a secondary certificate may choose whether to receive the elementary certificate or to add the endorsement to his or her existing certificate, thereby restricting his or her capacity for assignment to the grade levels encompassed by that certificate. An individual who elects to receive a separate certificate pursuant to this subsection (g) shall be required to pass the test of basic skills and/or the applicable assessment of professional teaching if passage of one or both of these tests would be required for receipt of a subsequent certificate as explained in Section 25.720 of this Part.

h) Special provisions shall apply to the issuance of endorsements in the sciences and social sciences. The requirements of subsections (h)(1) through (h)(4) of this Section relate to endorsements and designations based on the standards found at 23 Ill. Adm. Code 27.140 through 27.260~~, while the requirements of subsection (h)(5) make subject-specific credentials available to out-of-state applicants whose preparation has been structured to address individual disciplines within the sciences or social sciences~~.

1) An individual seeking to add an endorsement and a designation in either of these fields who does not already hold that endorsement with one of its other available designations shall be required to pass the content-area test for the designation sought and either:

A) be recommended for the endorsement and the designation by an institution with an approved program in the subject area based on having completed coursework sufficient to address the applicable content-area standards; or

B) present evidence of having accumulated 32 semester hours of college coursework in the field, from one or more regionally accredited institutions, that meets the following requirements:

i) at least 12 semester hours of credit must have been earned in the subject area of the designation sought; and

ii) some portion of the coursework completed must have addressed at least two additional designations within the field; and

iii) in the case of the sciences, the coursework completed must have included both biological and physical science.

2) The requirement stated in subsection (h)(1) of this Section shall apply whenever an individual seeks to add his or her first endorsement in one of these fields.

3) An individual may receive a subsequent designation in the same field if he or she has:

A) passed the applicable content-area test and, effective with applications received on or after February 1, 2012, completed 12 semester hours of coursework in the subject area of the designation; or

B) completed a major in the content area of the designation.

4) An individual who holds an endorsement in the sciences or social sciences under the structure that was in effect prior to July 1, 2004, may receive an endorsement and a designation in that field under the new structure by passing the content-area test for the designation sought and, effective with applications received on or after February 1, 2012, completing 12 semester hours of coursework in the subject area of the designation. He or she may then qualify for additional designations in the field pursuant to subsection (h)(3) of this Section.

i) Special provisions shall apply to the issuance of endorsements for reading teachers and reading specialists. A reading teacher is one whose assignment involves teaching reading to students, while a reading specialist is one whose assignment involves the provision of technical assistance and/or professional development to other teachers and may also include teaching reading to students.

1) Reading Teacher
This endorsement shall not be issued alone as an individual's first teaching credential. An individual who holds an Illinois early childhood, elementary, secondary, or special certificate, or who receives one of these certificates endorsed for some field other than reading, shall be eligible to receive this additional endorsement on that certificate (and on any other certificate held or subsequently earned) when he or she presents evidence of:

A) having passed the applicable content-area test (or test of subject matter knowledge) and having been recommended for the endorsement by virtue of completing an approved reading teacher's preparation program based on the standards set forth at 23 Ill. Adm. Code 27.110 that requires at least 24 semester hours of graduate or undergraduate coursework in reading, including a practicum involving clinical experience with two or more students

and at two or more grade levels, at an institution that is recognized to offer teacher preparation programs in Illinois; or

B) having passed the applicable content-area test (or test of subject matter knowledge) and having completed 24 semester hours of graduate or undergraduate coursework in reading, including a practicum, at one or more regionally accredited institutions of higher education, provided that all the following areas were addressed:

i) foundations of reading,

ii) content-area reading,

iii) assessment and diagnosis of reading problems,

iv) developmental and remedial reading instruction and support,

v) developmental and remedial materials and resources, and

vi) literature appropriate to students across all grade ranges; or

C) having completed, on or before June 30, 2006, the 18 semester hours of college coursework in reading described at 23 Ill. Adm. Code 1.740(a), in which case the individual shall apply for the endorsement no later than March 31, 2010, and passage of the content-area test or test of subject matter knowledge shall not be required.

2) Reading Specialist

A) Each candidate for the reading specialist's endorsement shall hold an Illinois early childhood, elementary, secondary, or special certificate and have at least two years of teaching experience on one or more of those certificates in an Illinois school. Each candidate shall be eligible to receive this endorsement on that certificate or on a separate special K-12 certificate when he or she

presents evidence of having completed the required teaching experience.

B) Each candidate shall hold a master's degree or higher degree awarded by a regionally accredited institution of higher education.

C) Each candidate shall have completed a K-12 reading specialist's program approved pursuant to Subpart C of this Part that includes ~~a practicum~~clinical experiences with five or more students at both the elementary (i.e., kindergarten through grade 8) and secondary levels and leads to the issuance of a master's or higher degree, provided that a person who holds one master's degree shall not be required to obtain a second one. For purposes of the clinical experiences, a candidate shall work with at least one student enrolled in elementary grades and at least one student enrolled in secondary grades and may work with students one on one or in a group. Each candidate shall have been recommended for the endorsement by the institution offering the program.

D) Each candidate shall be required to pass the content-area test for reading specialist.

3) An individual who qualifies for the reading specialist's endorsement may receive the endorsement on his or her early childhood, elementary, secondary, or special certificate or may elect to receive a separate special K-12 certificate. In the latter instance, the individual shall be required to pass the test of basic skills and/or the applicable assessment of professional teaching if passage of one or both of these tests would be required for receipt of a subsequent certificate as explained in Section 25.720 of this Part.

j) Special provisions shall apply to the addition of endorsements and designations in foreign languages.

1) An endorsement and a designation for a foreign language may be added to an existing certificate when an individual has completed a major area of concentration in the language, totaling 32 semester hours or as otherwise identified by a regionally accredited institution on the individual's official transcript.

2) An endorsement and a designation for a foreign language may be added to an existing certificate when an individual presents evidence of having accumulated 20 semester hours of college credit in the language, either as a subset of an approved program at an Illinois institution or from one or more regionally accredited institutions of higher education, and has passed the applicable content-area test (or test of subject matter knowledge). The 20 semester hours may be calculated by including semester hours of study that were waived by the institution offering the coursework based on the individual's prior learning, provided that the individual presents verification issued by the institution to this effect (i.e., a statement on the official transcript or a letter signed by the certification officer identifying the number of hours involved).

3) Each additional designation for a foreign language shall be subject to the requirements of this subsection (j).

4) Sections 25.85 and 25.86 of this Part set forth additional provisions for certification in foreign languages under specified circumstances.

k) The requirements of 23 Ill. Adm. Code 1.720 (Requirements for Teachers of Middle Grades), rather than the requirements of this Section, shall apply to credentials and assignments in the middle grades, except that Section 1.720 shall be read in conjunction with this Section with respect to reading and library information specialist assignments in the middle grades. The requirements of 23 Ill. Adm. Code 1.780, 1.781, and 1.782, rather than the requirements of this Section, shall apply to credentials and assignments in the areas of bilingual education and English as a Second (New) Language.

l) Each individual who is first assigned to teach a particular subject on or after July 1, 2004, based on completion of the minimum requirements for college coursework in that subject that are set forth at 23 Ill. Adm. Code 1.737(b), 1.745(b)(3), or 1.755(c), as applicable, but who has not met the requirements of this Section for an endorsement in that subject area shall have three years after the date of first assignment to meet those requirements and receive the relevant endorsement. An individual who does not do so shall become ineligible to teach the subject in question in any subsequent semester, unless he or she later receives the endorsement.

m) An additional endorsement for "technology specialist" shall be issued only upon presentation of evidence that the applicant has completed at least 24 semester hours of college coursework demonstrably related to the subject area at one or more regionally accredited institutions of higher education and has passed the relevant content-area test.

n) Beginning with applications received on or after February 1, 2012, an endorsement in safety and driver education shall be issued when the applicant provides evidence of having completed 24 semester hours of college credit in the field, with at least 12 semester hours at the upper-division or graduate level, as defined by the institution offering the coursework, distributed as follows:

1) 3 semester hours in injury prevention or safety;

2) 12 semester hours in driver education that include:

A) driving task analysis (introduction to driver education);

B) teaching driver education in the classroom;

C) teaching the laboratory portion of the driver education course, including:

i) on-street teaching under the supervision of a qualified driver education teacher;

ii) the equivalent of at least one semester hour's preparation in and use of driving simulation;

iii) the equivalent of at least one semester hour's preparation in and use of multiple-car programs; and

D) advanced driver education and emergency evasive driving;

3) 3 semester hours in first aid and cardiopulmonary resuscitation; and

4) 6 semester hours chosen in any combination from:

A) the use of technology in instruction;

B) safety issues related to alcohol and other drugs;

C) driver education for students with disabilities; and

D) any other safety-related area.

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

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

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

As used in this Subpart C, "institution" shall be defined as an Illinois institution of higher education, an out-of-state college or university granted authorization to operate~~operating authority~~ by the Illinois Board of Higher Education as an out-of-state institution, an out-of-state college or university granted authorization to operate by the state in which it is located, or a not-for-profit educational entity subject to the General Not For Profit Corporation Act of 1986 [805 ILCS 105] or incorporated as a not-for-profit entity in another state but registered to do business in the State of Illinois pursuant to the Business Corporation Act of 1983 [805 ILCS 5].

a) In order for an institution to offer one or more programs that prepare professional educators, that institution must be recognized, and the educational unit responsible for such programs must be recognized, by the State Board of Education in consultation with the State Teacher Certification Board. "Educational unit" means the institution or college, school, department, or other administrative body within the institution that is primarily responsible for the initial and continuing preparation of teachers and other education professionals. Each program that is offered by a recognized institution must also be individually approved by the State Board of Education in consultation with the State Teacher Certification Board. "Program" or "preparation program" means a program that leads to certification. Electronic transmission of written materials pursuant to this Subpart C is required.

b) In order to be considered for recognition under Section 25.155 of this Part, a degree-granting institution of higher education shall:

1) be regionally accredited;

2) be approved ~~as a degree-granting institution~~ by the Illinois Board of Higher Education to operate as a postsecondary degree-granting institution under the provisions of the Private College Act [110 ILCS 1005] and the Academic Degree Act [110 ILCS 1010] or, if the out-of-state institution is not required to seek authorization to operate from the Illinois Board of Higher Education, be approved to offer educator preparation programs by the state that granted it operating authority~~subject to provisions of the Institution of Learning Powers Act [110 ILCS 50]~~; and

3) sponsor a course of study leading to a certificate issued under Article 21 of the School Code [105 ILCS 5/Art. 21] and this Part.

c) In order to be considered for recognition under Section 25.155 of this Part, an eligible not-for-profit educational entity shall conduct or propose to conduct at least one approved program that will prepare professional educators and leads to a certificate issued pursuant to Article 21 of the School Code and this Part.

d) In order to be considered for recognition under Section 25.155 of this Part, an educational unit shall meet the standards enumerated in "Professional Standards for the Accreditation of Teacher Preparation Institutions " (2008), published by the National Council for the Accreditation of Teacher Education (NCATE), 2010 Massachusetts Avenue, N.W., Suite 500, Washington, D.C. 20036-1023 (no later amendments to or editions of these standards are incorporated by this Section).

e) In order to be considered for approval under Section 25.145 of this Part, a recognized institution shall propose a preparation program that~~shall meet~~:

1) meets the national content standards accepted by the State Board of Education and listed on the State Board of Education's website at www.isbe.net or, if no national content standards are specified, then the applicable content standards set forth at 23 Ill. Adm. 23, 26, 27, or 29;~~ and~~

2) meets the standards set forth at 23 Ill. Adm. Code 24 (Standards for All Illinois Teachers) or the Educational Leadership Policy Standards: ISLLC 2008, adopted by the National Policy Board for Educational Administration and posted at http://www.npbea.org/projects.php (no later additions to or editions of these standards are incorporated by this Part), as

applicable; and.

3) will produce candidates for certification in areas defined as "shortage areas" by the State Superintendent of Education (e.g., the number of individuals holding a particular certificate and the number of positions that are currently vacant or predicted to be available in the next five years; the number of approved programs in Illinois and their capacity). Evidence of need shall be presented in the application submitted under Section 25.145 of this Part.

f) In the case of a not-for-profit entity, all advertising materials, candidate handbooks, catalogues, and candidate contracts shall display prominently the fact that the entity does not offer higher education credit and that there is no guarantee that the Illinois certificate or endorsement earned by the candidate will be honored or accepted for exchange in another state.

g) The recognition of an educational unit shall be subject to review every four years beginning in 2012. This cycle shall begin in accordance with a timeline established by the State Superintendent of Education or designee. The approval of the educational unit's programs shall be subject to review in each year after the unit receives initial State recognition.

h) Each recognized educational unit shall submit a separate annual program report for each approved program to the State Superintendent of Education, in a format defined by the State Superintendent, no sooner than October 1 and no later than November 30. Subject-area designations (see Section 25.100(a) of this Part) shall be considered separate programs for reporting purposes. The annual program report shall:

1) update any information previously provided;

2) summarize data about the program's overall structure, faculty, and candidates, and the results of various assessments, including the effectiveness of the completers of the program from the performance evaluations conducted under Article 24A of the School Code [105 ILCS 5/Art. 24A] (to be provided for principals beginning in 2014 and for teachers beginning in 2018):

A) If at least 80 percent of an institution's teacher preparation program completers have passed the content area test and applicable form of the assessment of professional teaching (APT) in each of the preceding three years, the institution shall be deemed to be adequately addressing the Standards for All Illinois Teachers set forth at 23 Ill. Adm. Code 24;

B) If at least 80 percent of an institution's administrative certification program completers have passed the applicable content-area examinations for administrative certification in each of the preceding three years, the institution shall be deemed to be adequately addressing the standards set forth in subsection (e)(2) of this Section; and

3) as relevant to the institution, report on all programs provided by the institution that have been approved as an alternative route to certification under Sections 25.65 and 25.67 of this Part.

i) In conjunction with the review set forth in subsection (g) of this Section, each educational unit shall submit a unit report to the State Superintendent, in a format specified by the State Superintendent, no sooner than October 1 and no later than November 30 of the academic year (i.e., September 1 through August 31) in which the review is scheduled. The report shall include:

1) a description of how the unit has addressed any concerns about applicable standards identified in any of the program reports produced pursuant to subsection (h) of this Section submitted in each of the last four years preceding the review;

2) any changes in the institution or in the educational unit that affects the operation of the unit;

3) any new programs approved in the last four years;

4) the percentage of individuals in the last four years who completed the program and received a certificate or endorsement who were hired into a related school position in the field for which the certificate or endorsement was issued; and

5) data regarding the effectiveness of the completers of the program from the performance evaluations conducted under Article 24A of the School Code [105 ILCS 5/Art. 24A] (to be provided for principals beginning in 2014 and for teachers beginning in 2018).

j) No later than April 7 of each year, each institution shall report to the State Board of Education, using a form supplied by the Board, on its program completers' pass rates on the examinations required for initial certification pursuant to this Part and other information required by Title II of the Higher Education Act (20 USCA 1027). Further, each institution shall make this information readily available to the public on an annual basis and shall include it in or with publications routinely sent to potential applicants, guidance counselors, and prospective employers of the institution's program completers.

k) State Board of Education staff may visit a recognized institution at any time with one day's advance notice and may ask to speak with faculty, candidates, or administrators. All records shall be made available to State Board of Education staff upon request.

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

Section 25.145 Approval of New Programs Within Recognized Institutions

The procedures set forth in this Section shall apply to the initial approval of additional educator preparation programs established by institutions that are already recognized, including those that have been granted initial recognition.

a) The institution shall submit to the State Superintendent of Education a program proposal meeting the requirements set forth in this subsection (a), showing how each proposed program meets the applicable professional education and content-area standards established by the State Board of Education.

1) A description of the program's alignment with the unit's conceptual framework.

2) A description of the criteria for admission to, retention in, and exit from the program, including the required grade point average and minimum grade requirements for the institution and how the key assessments used in

the program are derived from or informed by the unit's assessment system (see Section 25.140 of this Part).

3) A description~~Description~~ about how data on the candidates enrolled in the program and candidates completing the program will be used as part of the assessment system required under Section 25.142 of this Part. If a program is offered at more than one level (i.e., baccalaureate, post-baccalaureate, or graduate, or as an alternative program), data shall be considered separately for each of these arrangements.

4) Identification of the faculty members with primary responsibility for preparing professional educators in the program and their qualifications for their positions.

5) A description of the course of study, including required courses, State standards addressed, ~~and~~ related field experiences or clinical practice as applicable to specified courses, and the proportion of coursework offered by distance learning or video-conferencing technology.

6) A description of the required field experiences and clinical practice, including criteria, measures taken to ensure placements in diverse settings and with diverse students, and the program's requirements for faculty supervision of these experiences.

7) A description of the key assessments that are required of candidates in the program under Section 25.142 of this Part, including:

A) the specific standards addressed by each assessment that is used to comply with the requirements of Section 25.142(a)(1) through (5) or Section 25.142(b)(1) through (5), as applicable;

B) a summary of findings based on data from all the assessments described under subsection (a)(7)(A) of this Section, from the applicable content-area test identified in Section 25.710 of this Part, and from the Assessment of Professional Teaching, if applicable; and

C) a discussion of how the assessment data demonstrate candidates' mastery of the identified standards.

8) A description of information related to two or three additional assessments that address relevant standards, if inclusion of this information is desired by the unit offering the program.

9) A description of the need for individuals holding the type of certification to be awarded upon program completion, including, but not limited to, evidence of a shortage of these types of educators (e.g., special education, math, science), either across the State or in certain geographical areas. If the shortage is specific to a certain area, describe the steps to be taken to recruit candidates from that area of the State or to place candidates in positions in schools located there.

b) After consideration of the proposal, the State Teacher Certification Board shall convey to the State Superintendent its recommendation that the State Board of Education:

1) Approve the proposed new educator preparation programs, thereby authorizing the educational unit to conduct the programs and to recommend candidates for certification by entitlement; or

2) Deny approval of the proposed programs, thereby prohibiting the conduct of the affected programs (a program denied by the State Board of Education will be allowed to resubmit its program proposal for reconsideration at a later time or, after notification of a denial recommendation, a program may withdraw its proposal from consideration within the timelines set forth in Section 25.160(b) of this Part, at which time no denial action will be taken).

c) Actions following upon the recommendation of the State Teacher Certification Board to the State Superintendent of Education shall be as described in Section 25.160 of this Part.

d) When a unit submits a proposal for an alternative program under any of Sections 21-5b, 21-5c, and 21-5d of the School Code [105 ILCS 5/21-5b, 21-5c, and 21-5d], that proposal shall not be considered a new program subject to this Section. The review of such a proposal shall be as delineated in Section 25.65, 25.67, or 25.313 of this Part, as applicable.

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

Section 25.155 Procedures for the Initial Recognition of an Institution as an Educator Preparation Institution and Its Educational Unit

The procedures set forth in this Section shall apply to initial recognition of an institution and the concurrent recognition of the educational unit. The approval of the educator preparation programs within that institution shall follow the procedures set forth in Section 25.145 of this Part.

a) An institution shall notify the State Board of Education of its desire to initiate the initial recognition process by submitting a letter of intent to the State Superintendent of Education. Within 30 days after receipt of such a notification, the State Superintendent shall respond to the institution, identifying the staff member who will be responsible for assisting the institution and inviting the institution to submit its required materials to that individual.

b) The State Superintendent shall designate a time for a pre-visit or review visit conducted pursuant to subsection (h) of this Section. The institution shall agree:

1) for visits conducted in Illinois, to provide housing (including a work room) for the team chair and State consultant or designee in the case of a pre-visit or for all of the team members specified in subsection (i) of this Section, including the ex officio member, in the case of a review visit; or

2) for visits conducted out of state, provide housing (including a work room), transportation and meals for the team chair and State consultant or designee in the case of a pre-visit or for all of the team members specified in subsection (i) of this Section, including the ex officio member, in the case of a review visit.

c) The institution shall submit to the State Superintendent of Education, in the quantity and format specified by the State Superintendent, a report containing:

1) information indicating that the institution meets the conditions described in Section 25.115(b) and (c) of this Part;

2) a written description of the educational unit, including:

A) identification of the unit, its mission, purposes, or goals, its authority and responsibilities for professional education, and its coordination of the institution's various educator preparation programs;

B) identification of the dean, chair, or director who is officially designated to represent the educational unit and is assigned the authority and responsibility for its overall administration and operation;

C) a chart of the administrative and organizational structure of the unit;

D) an organizational chart of the institution, indicating the position of the unit and its reporting authority;

E) the written policies and procedures which guide the operations of the educational unit;

F) the unit's policies for monitoring and evaluating its operations, the quality of its offerings, performance of candidates, and effectiveness of its graduates; and

G) the unit's published criteria for admission to and exit from all initial and advanced preparation programs for professional educators, and provision for summary reports of candidate performance at exit; and

3) a complete description of how the unit will develop the unit's conceptual frameworks that shall address each of the "structural elements" of conceptual frameworks found in the standards referred to in Section 25.115(d) of this Part.

d) Review of conceptual frameworks for institutions seeking initial recognition shall be conducted as needed by a panel convened by the State Superintendent. The State Superintendent or designee will provide notice of the review at least 10~~120~~ days in advance of the date of the review. The review shall encompass all materials postmarked no later than six months prior to the date of the review, if a review date has been set. No later than 30 days after the panel completes its

review, the State Board of Education shall notify the institution either that the description of its conceptual frameworks is adequate or that certain structural elements were not adequately addressed.

e) If the description of the conceptual frameworks is not found to be adequate, no further review of the institution shall occur unless the institution submits a revised conceptual framework. If the description of the conceptual frameworks is found to be adequate, a review visit pursuant to subsection (h) of this Section shall be scheduled at a time that is mutually agreed upon by the institution and State Superintendent or designee.

f) The State Teacher Certification Board shall consider the program proposal as required under Section 25.145 of this Part at the next meeting in which it considers recognition requests following the review visit pursuant to subsection (h) of this Section.

g) The institution shall submit to the State Superintendent an institutional report incorporating an overview of the institution, an overview of the unit's conceptual frameworks, an overview of the information required under subsection (c) of this Section and evidence that it will meet each of the standards referred to in Section 25.115(d) of this Part. This report shall be submitted in a format and quantity prescribed by the State Superintendent of Education.

h) The State Superintendent of Education shall authorize the scheduling of an on-site review visit to the institution at the mutual convenience of the affected institution and the review panel when:

1) its conceptual framework is found to be adequate;

2) the institution has submitted the narrative required under subsection (g) of this Section; and

3) the program proposal required under Section 25.145 of this Part has been submitted.

i) From a pool of individuals who have been trained in the applicable standards and procedures, the State Superintendent shall empanel a team to conduct the review visit to verify the information provided by the institution as required by subsection (g) of this Section. A staff member of the State Board of Education or

designee shall accompany the team, serving as a consulting, ex officio member to ensure that applicable standards, procedures, rules, and statutes are addressed.

j) The review team shall prepare a draft report during the review visit, incorporating an overview of the unit and its conceptual frameworks and summarizing information provided by the institution as required by subsection (g) of this Section. The draft report shall be provided to the institution within 30 business days after the conclusion of the visit for the purpose of allowing the institution 30 days to correct any factual errors. The team chair shall review the institution's suggested revisions and make appropriate corrections in consultation with the ex officio consultant who is serving pursuant to subsection (i) of this Section. The final report shall be submitted to the State Superintendent of Education by the team's chair within 30 days after the chair's receipt of the institution's suggested corrections. The State Superintendent shall provide the final report to the institution within ten business days after receiving it.

k) Within 30 days after receipt of the final report, the institution shall submit to the State Superintendent either a letter stating agreement with the report's findings or a rejoinder to those findings.

1) The rejoinder must indicate the grounds for disagreement with one or more of the team's findings and include documentation to support the institution's position.

2) All documentation must describe conditions that existed at the time of the review visit. (Changes made by the unit after the visit will not be considered.)

3) All documentation must relate directly to the standards and procedures that applied at the time of the review visit.

l) Staff of the State Board of Education shall convey to the State Teacher Certification Board the review team's report, the institution's letter of agreement or rejoinder, a response to that rejoinder provided by the team's chair, and any other relevant documentation that was available to the review team.

m) The State Teacher Certification Board, after reviewing all the relevant materials, shall convey its recommendation to the State Superintendent that the State Board of Education:

1) Recognize the institution, recognize the educational unit, and approve one or more proposed educator preparation programs, thereby authorizing the educational unit to conduct the approved programs and to recommend candidates for certification by entitlement; or

2) Recognize the institution, recognize the educational unit, and deny approval of one or more proposed educator preparation programs, thereby authorizing the educational unit to conduct the approved programs and to recommend candidates for certification by entitlement for the approved programs and prohibit the conduct of the proposed programs denied approval. Programs denied approval may resubmit a request for program approval at a later date; or

3) Deny recognition of the institution or recognition of the affected educational unit, and approval of one or more educator preparation programs, thereby prohibiting the conduct of the proposed programs.

n) Actions following upon the recommendation of the State Teacher Certification Board to the State Superintendent of Education shall be as described in Section 25.160 of this Part.

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

SUBPART D: SCHOOL SERVICE PERSONNEL

Section 25.275 Renewal of the School Service Personnel Certificate

The requirements set forth in this Section apply to renewal of school service personnel (SSP) certificates in accordance with Section 21-25 of the School Code [105 ILCS 5/21-25].

a) Pursuant to Section 21-25 of the School Code, the renewal of school service personnel certificates held by individuals employed and performing services in certain types of public schools is contingent upon certificate-holders' presentation of evidence of continuing professional development. Renewal of any affected SSP certificate whose period of validity begins on or after July 1, 2008 shall require the certificate-holder's:

1) possession of one of the State licenses identified in Section 21-25(e) of the School Code, that is:

A) current licensure as either a clinical professional counselor or a professional counselor under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107];

B) current licensure as either a clinical social worker or a social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20]; or

C) current licensure as a speech-language pathologist under the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]; or

2) possession of one of the national certifications identified in Section 21-25(e) of the School Code; or

3) completion of sufficient professional development activities to satisfy the requirements of Section 21-25 of the School Code.

b) An individual who wishes to qualify for certificate renewal based on licensure or national certification as permitted by Section 21-25 of the School Code shall maintain documentation related to the relevant license or certificate, including its date of issue, period of validity, and issuing body. This information shall be included in the individual's application for certificate renewal in place of the statement of assurance called for in subsection (k) of this Section.

c) Completion of the certification process conducted by the National Board for Professional Teaching Standards (NBPTS) may be used to fulfill the entire requirement for professional development under subsection (a)(2) of this Section for the renewal cycle during which completion occurs. Evidence of completion of this process shall be the inclusion of the certificate-holder's name on NBPTS' composite list of those who have completed the certification process (as distinct from having received certification).

d) Except as provided in subsections (b) and (c) of this Section, *each professional development activity used to fulfill the requirements of this Section shall be required to address one or more of the purposes* set forth in Section 21-25(e) of the School Code, and *three of the four purposes must be addressed*. No later than 60 days after the State Board of Education votes to establish or change the list of

areas determined by the Board to be critical for all school service personnel (Section 21-25 of the School Code), the State Superintendent of Education shall notify each school district superintendent, each regional superintendent of schools, and any organization that requests this notification. The notice shall include a list of the areas and state the date upon which the list takes effect.

e) CPDUs shall be generated for completion of activities in accordance with the provisions of Section 25.875 of this Part, provided that, as necessary to the context:

1) references to Section 21-14 of the School Code shall be understood to mean the comparable provisions of Section 21-25 of the School Code;

2) references to teachers, teaching, and instruction shall be understood to mean holders of the school service personnel certificate and their performance of services;

3) references to the classroom shall be understood to mean the setting where services are provided;

4) references to classes directly taught by the certificate-holder (Section 25.875(e) and (n) of this Part) shall be understood to mean students directly served by the certificate-holder;

5) references specific to the supervision or preparation of candidates for teaching certificates (Section 25.875(h) and (m) of this Part) shall be understood to mean the supervision or preparation of candidates for the school service personnel certificate;

6) references to content-area standards (Section 25.875(i) of this Part) shall be understood to mean the relevant standards set forth at 23 Ill. Adm. Code 23 (Standards for the School Service Personnel Certificate); and

7) the reference to State priorities (Section 25.875(k) of this Part) shall be understood to mean the critical areas identified by the State Board of Education pursuant to Section 21-25(e)(2) of the School Code.

f) The provisions of Sections 25.855, 25.860, 25.865, and 25.872 of this Part shall apply to the awarding of CPDUs for activities offered by providers, provided that, as necessary to the context:

1) references to Section 21-14 of the School Code shall be understood to mean the comparable provisions of Section 21-25 of the School Code;

2) references to Subpart J of this Part shall be understood as referring to this Section; and

3) references to teachers shall be understood to include holders of the school service personnel certificate.

g) Each school service personnel certificate shall be maintained as "valid and active" or "valid and exempt" for each semester of its validity. Periods of exemption and proportionate reductions in the requirements for continuing professional development shall be determined as discussed in Section 25.880(a) of this Part. In addition:

1) *the number of continuing professional development units needed to renew the certificate shall be reduced by 50 percent for any amount of time during which the certificate-holder has been employed and performing services on a part-time basis, i.e., for less than 50 percent of the school day or school term*; and

2) *a certificate-holder who is employed as a substitute on a part-time basis or a day-to-day basis shall only be required to pay the registration fee in order to renew his or her certificate* (Section 21-25(e) of the School Code).

h) Credit earned for any activity that is completed (or for which the certificate-holder receives evidence of completion) on or after April 1 of the final year of a certificate's validity, if not claimed with respect to that period of validity, may be carried over and claimed in the subsequent period of validity, provided that the activity in question is relevant to the requirements that apply to that period.

i) Each certificate-holder shall:

1) maintain the required form of evidence of completion for each activity throughout the period of validity that follows the renewal of the certificate based on completion of the activities documented; and

2) present the evidence of completion upon request by the regional superintendent or a representative of the State Board of Education or if required as part of an appeal under this Section.

j) An Illinois master SSP certificate shall have a ten-year period of validity. When an individual receives an Illinois master SSP certificate, any other SSP certificate held by the same individual shall be renewed as of the date of issuance of the master certificate. Any other SSP certificate shall automatically qualify for renewal at the end of its five-year period of validity, as long as the individual continues to hold the master certificate.

1) When an Illinois certificate-holder successfully renews his or her National Board certification, he or she shall be entitled to renew the Illinois master SSP certificate and any other SSP certificate held if the applicable requirements of this Section have also been met.

2) The holder of an Illinois master certificate whose certification through the NBPTS is not renewed shall nevertheless be entitled to renew the master certificate when it expires, provided that the applicable requirements of this Section have been met during the master certificate's period of validity.

k) Each holder of an SSP certificate shall apply for renewal of that certificate as set forth with respect to teaching certificates in Section 25.830 of this Part, including the submission of a statement of assurance that conforms to the requirements of subsection (b) of that Section, except that:

1) each application for certificate renewal shall be submitted to the regional superintendent of schools, regardless of whether a local professional development committee is in operation in the employing district; and

2) references to "standard" certificates in that Section shall be understood to apply to SSP certificates.

l) Within 14 days after receiving an application for the renewal of a school service personnel certificate, the regional superintendent shall forward to the State Teacher Certification Board a recommendation for renewal or nonrenewal on a form prescribed by the State Superintendent of Education.

1) The regional superintendent shall transmit a list identifying all the certificate-holders with respect to whom the regional superintendent is recommending renewal of SSP certificates, along with verification that:

A) each certificate-holder has completed professional development or otherwise qualifies for certificate renewal in accordance with the requirements of Section 21-25 of the School Code and this Section; and

B) each certificate-holder has submitted the statement of assurance required in accordance with subsection (k) of this Section.

2) If the recommendation is not to renew the certificates held, or if information provided on the application makes the individual subject to the requirements of any of Sections 25.485 through 25.490 of this Part, the certificate-holder's copy shall be sent concurrently by certified mail, return receipt requested. Each recommendation for nonrenewal shall include the regional superintendent's rationale.

m) A certificate-holder with respect to whom a regional superintendent has recommended nonrenewal of the SSP certificate may appeal to the State Teacher Certification Board in accordance with the provisions of Section 25.835(h) of this Part, except that the requirements of Section 21-25 of the School Code shall be understood to apply rather than those established by Section 21-14 of the School Code.

n) The State Teacher Certification Board shall review regional superintendents' recommendations regarding the renewal of SSP certificates and notify the affected certificate-holders in writing as to whether their certificates have been renewed or not renewed. This notification shall take place within 90 days after the State Teacher Certification Board receives regional superintendents' recommendations, subject to the right of appeal set forth in this subsection (n).

1) Within 60 days after receipt of an appeal filed by a certificate-holder challenging a regional superintendent's recommendation for nonrenewal, the State Teacher Certification Board shall hold an appeal hearing. The Board shall notify the certificate-holder of the date, time, and place of the hearing.

2) The certificate-holder shall submit to the State Teacher Certification Board such additional information as the Certification Board determines is necessary to decide the appeal.

3) The State Teacher Certification Board may request that the certificate-holder appear before it. The certificate-holder shall be given at least ten days' notice of the date, time, and place of the hearing.

4) In verifying whether the certificate-holder has met the renewal criteria set forth in Section 21-25 of the School Code, the State Teacher Certification Board shall review the recommendation of the regional superintendent of schools and all relevant documentation.

o) The State Teacher Certification Board shall notify the certificate-holder in writing, within seven days after completing its review, as to whether the SSP certificate has been renewed. Upon receipt of notification of renewal, the certificate-holder shall pay the applicable registration fee to the regional superintendent. If the decision is not to renew the certificate, the notice to the certificate-holder shall be transmitted by certified mail, return receipt requested, and shall state the reason for the decision. The decision of the State Teacher Certification Board is final and subject to administrative review as set forth in Section 21-24 of the School Code [105 ILCS 5/21-24].

p) An individual whose certificate is not renewed because of his or her failure to meet the requirements of Section 21-25 of the School Code and this Section may apply for a reinstated certificate, as defined in Section 25.450(c) of this Part, valid for one year. The reinstatement period shall begin July 1 of the year in which the certificate expires. After the one-year period of validity of the reinstated certificate, the individual shall receive a renewable SSP certificate only if he or she presents evidence of having:

1) completed the balance of the professional development activities that were required for renewal of the certificate previously held; and

2) earned five additional semester hours of credit from a regionally accredited institution of higher learning relevant to the field of certification.

q) The provisions of Section 25.840(d) of this Part shall apply to the renewal of the school service personnel certificate.

r) If fewer than five years remain in the period of a certificate's validity as of July 1, 2008, the number of CPDUs required in order to renew the certificate at the conclusion of that period shall be proportionately reduced.

s) An individual who performs services both on an SSP certificate and concurrently also on some other type of certificate to which renewal requirements apply shall be subject to the provisions of Section 25.475 of this Part.

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF ADMINISTRATIVE AND SUPERVISORY STAFF

Section 25.315 Renewal of Administrative Certificate

The requirements set forth in this Section apply to renewal of administrative certificates in accordance with Section 21-7.1 of the School Code [105 ILCS 5/21-7.1].

a) Professional Development Required
Pursuant to Section 21-7.1 of the School Code, renewal of administrative certificates held by public school administrators who are serving in positions requiring administrative certification is contingent upon certificate-holders' presentation of evidence of continuing professional education. For the purposes of this Section, the terms "continuing professional education" and "continuing professional development" shall be considered synonymous. Renewal of any affected administrative certificate whose period of validity begins on or after July 1, 2003, shall require the certificate-holder's completion of professional development activities sufficient to satisfy the requirements of Section 21-7.1 of the School Code and presentation, upon request by the regional superintendent or a representative of the State Board of Education or if required as part of an appeal under this Section, of evidence of completion of the activities.

b) Each activity shall be required to address one or more of the following purposes:

1) *improving the administrator's knowledge of instructional practices and administrative procedures*;

2) *maintaining the basic level of competence required for initial certification; and*

3) *improving skills and knowledge regarding the improvement of teaching performance in clinical settings and assessment of levels of student performance.* (Section 21-7.1 of the School Code)

c) Activities selected to fulfill the requirement for 100 hours of professional development (see Section 21-7.1(c-10) of the School Code) shall be subject to the provisions of this subsection (c).

1) Activities chosen for this purpose may include but need not be limited to:

A) Completion of college/university courses;

B) Participation in state and national conferences of professional organizations or in workshops, seminars, symposia, or other, similar training events;

C) Teaching college/university courses or making presentations at conferences, workshops, seminars, symposia, or other, similar training events;

D) Providing formal mentoring to one or more other administrators;

E) Independent study; and

F) Other activities related to the Illinois School Leader Standards and other applicable standards (see 23 Ill. Adm. Code 29) such as developing or revising school programs, participating in Administrators' Academy courses, research, and other, similar projects.

2) Continuing professional development hours for the activities chosen pursuant to this subsection (c) shall be credited as follows.

A) Fifteen hours shall be credited for each semester hour of college credit earned.

B) One hour shall be credited for each hour of the administrator's direct participation in a relevant activity other than college coursework, as verified by a log the administrator shall maintain and present upon request by the regional superintendent or a representative of the State Board of Education, or if required as part of an appeal under this Section, describing what was done with respect to each activity, with dates and amounts of time spent in each case.

d) Required Administrators' Academy Courses

1) An individual who fails to complete an Administrators' Academy course in a given year as required by Section 21-7.1(c-10)(B) of the School Code shall be required to complete two courses for each one missed. He or she may make these up at any time during the remainder of the certificate's validity or while holding a reinstated certificate pursuant to subsection (e)(5) of this Section.

2) Each administrator who completes an Administrators' Academy course shall receive written, dated verification that indicates the title of the course and the number of hours to be credited toward the applicable requirement.

e) Application for Renewal of Certificate

1) Each application for renewal of an administrative certificate, other than an application of a regional superintendent of schools, shall be submitted to the regional superintendent and shall be accompanied by *a verification format developed by the State Board of Education certifying that* the required number of hours of professional development activities and the required number of Administrators' Academy courses have been completed. (Section 21-7.1(c-10) of the School Code) A certificate-holder who fails to submit this material so as to ensure its receipt by the

regional superintendent no later than April 30 may not be able to preserve his or her right of appeal under subsection (f) of this Section.

2) Based on the available information regarding the individual's compliance with the requirements for certificate renewal set forth in this Section, the regional superintendent shall, within 30 days after receipt of an individual's application, forward a recommendation for renewal or non-renewal of the administrative certificate to the State Superintendent of Education and notify the certificate-holder in writing of that recommendation.

3) A certificate-holder who is a regional superintendent of schools shall submit the verification format referred to in subsection (e)(1) of this Section to the State Superintendent of Education along with his or her application for certificate renewal.

4) Within 30 days after receiving an application, the State Superintendent of Education shall notify the affected certificate-holder as to whether the administrative certificate has been renewed or not renewed, including the rationale for nonrenewal. Upon receipt of notification of renewal, the certificate-holder shall pay the applicable registration fee to the regional superintendent, except that a regional superintendent shall deposit his or her own fee in the region's institute fund.

5) An individual whose certificate is not renewed because of his or her failure to complete professional development in accordance with this Section may apply for a reinstated certificate, as defined in Section 25.450(c) of this Part, valid for one year. The reinstatement period shall begin July 1 of the year in which the certificate expires. With respect to the year of reinstatement, completion of one Administrators' Academy course and one or more additional professional development activities meeting the requirements of subsections (b) and (c) of this Section and totaling no fewer than 20 hours shall be required. After the one-year period of validity of the reinstated certificate, the individual shall receive a renewable administrative certificate only if he or she also presents evidence of having made up activities missed during the preceding renewal cycle by completing the requirements of subsection (e)(5)(A) of this Section, subsection (e)(5)(B) of this Section, or both, as applicable.

A) The certificate-holder shall complete two Administrators' Academy courses for each year during which he or she failed to complete one, if not already made up as discussed in subsection (d)(1) of this Section.

B) If the certificate-holder failed to complete the applicable number of professional development activities or hours, he or she shall complete the balance of that requirement and ten additional hours of professional development meeting the requirements of subsections (b) and (c) of this Section.

6) The period of validity of an administrative certificate issued after a year of reinstatement or held after the reinstatement of a teaching certificate shall be adjusted to coincide with the validity of the holder's teaching certificate.

f) Appeal to State Teacher Certification Board
Within 14 days after receipt of notice from the State Superintendent that his or her administrative certificate will not be renewed based upon failure to complete the requirements of this Section, a certificate-holder may appeal that decision to the State Teacher Certification Board, using a form made available by the State Board of Education.

1) Each appeal shall state the reasons why the State Superintendent's decision should be reversed and shall be sent by certified mail, return receipt requested.

A) Appeals shall be addressed to:

State Teacher Certification Board
Secretary
100 North First Street
Springfield, Illinois 62777

B) No electronic or facsimile transmissions will be accepted.

C) Appeals postmarked later than 14 calendar days after receipt of the non-renewal notice will not be processed.

2) In addition to the appeal letter, the certificate-holder shall submit the following material when the appeal is filed:

A) evidence that he or she has satisfactorily completed the required types and quantity of activities; and

B) any other relevant documents.

3) The State Teacher Certification Board shall review each appeal regarding renewal of an administrative certificate in order to determine whether the certificate-holder has met the requirements of this Section. The Certification Board may hold an appeal hearing or may make its determination based upon the record of review, which shall consist of:

A) the regional superintendent's rationale for recommending nonrenewal of the certificate, if applicable;

B) any evidence submitted to the State Superintendent along with the individual's application for renewal; and

C) the State Superintendent's rationale for non-renewal of the certificate.

4) If the Certification Board holds an appeal hearing, it may request the certificate-holder to appear before it, in which case no less than ten days' notice of the date, time, and place of the hearing shall be given to the affected individual.

5) The certificate-holder shall submit to the State Teacher Certification Board such additional information as the Certification Board determines is necessary to decide the appeal.

6) The State Teacher Certification Board shall notify the certificate-holder of its decision regarding certificate renewal by certified mail, return receipt requested, no later than 30 days after reaching a decision. Upon receipt of notification of renewal, the certificate-holder shall pay the applicable registration fee to the regional superintendent, except that a regional superintendent shall deposit his or her own fee in the region's institute fund.

7) The State Teacher Certification Board shall not renew any certificate if information provided on the application makes the holder subject to the requirements of any of Sections 25.485 through 25.490 of this Part. The decision of the State Teacher Certification Board is a final administrative decision and shall be subject to administrative review as set forth in Section 21-24 of the School Code [105 ILCS 5/21-24].

g) Proportionate Reduction; Part-Time Service
The requirements of this Section regarding continuing professional development are subject to reduction in accordance with Section 21-7.1(c-15) of the School Code.

1) The requirements of this Section shall be subject to reduction on the same annual basis as provided in Section 21-7.1(c-15) of the School Code in relation to years when a certificate-holder is not employed in a position requiring administrative certification.

2) The number of hours required under subsection (c) of this Section shall also be reduced by 50 percent with respect to periods of time when a certificate-holder is serving on an administrative certificate only and performing services for less than 50 percent of the school day or school term, unless the individual is one whose continued retirement status is subject to the limitations of Section 16-118 of the Illinois Pension Code. Each such individual shall be subject only to the requirement for completion of one Administrators' Academy course for each year during which he or she is employed on the administrative certificate, provided that his or her employment does not exceed the limitations of Section 16-118.

h) An individual who performs services on an administrative certificate and concurrently also on some other type of certificate to which renewal requirements apply shall be subject to the provisions of Section 25.475 of this Part.

i) Section 21-7.1(c-10) of the School Code provides that *those persons holding administrative certificates on June 30, 2003 who are renewing those certificates on or after July 1, 2003 shall be issued new administrative certificates*. The certificates that are subject to this provision include:

1) Limited Supervisory (Type 60);

2) All-Grade Supervisory (Type 61);

3) Limited Elementary Supervisory (Type 62);

4) Limited High School Supervisory (Type 63);

5) Life General Supervisory (Type 70); and

6) Life Supervisory (Type 71).

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

Section 25.335 General Administrative Endorsement (Through June 30, 2014)

This endorsement is required for principals, assistant principals, assistant or associate superintendents, and staff filling other similar or related positions as indicated in 23 Ill. Adm. Code 1.705. (See also 23 Ill. Adm. Code 29.120.) The requirements of this Section shall apply to the issuance of this endorsement except as otherwise provided in Sections 21-5d and 21-5e of the School Code [105 ILCS 5/21-5d and 5/21-5e] and Sections 25.313 and 25.314 of this Part.

a) Each candidate for the general administrative endorsement shall hold a master's degree or equivalent awarded by a regionally accredited institution of higher education and shall have completed the coursework in educational administration and supervision required by Section 21-7.1(e)(2) of the School Code [105 ILCS 5/21-7.1(e)(2)]. For the purposes of this subsection (a), "equivalent" shall mean the completion of a degree beyond the bachelor's degree level (e.g., juris doctor (J.D.), doctor of philosophy (Ph.D.), doctor of education (Ed.D.)).

b) Each candidate shall have completed either:

1) an Illinois program approved for the preparation of administrators pursuant to Subpart C of this Part; or

2) a comparable approved program in another state or country or hold a comparable certificate issued by another state or country (see Section 25.425 of this Part).

c) Each candidate shall have *two years' full-time teaching or school service personnel experience in public schools, schools under the supervision of the Department of Corrections, schools under the administration of the Department of Human Services, or nonpublic schools recognized by the State Board of Education or meeting comparable out-of-state recognition standards* (Section 21-7.1(e)(2) of the School Code). Beginning with applications submitted on or after February 1, 2012, in order to be acceptable toward fulfillment of this requirement:

1) teaching experience shall have been accrued while the individual held a valid early childhood, elementary, secondary, special K-12, or special preschool-age 21 certificate; and

2) school service personnel experience shall have been accrued while the individual held a valid school service personnel certificate.

d) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills if its passage would be required for receipt of a standard certificate pursuant to Section 25.720(a) of this Part.

e) A candidate who receives the general administrative endorsement on or before June 30, 2014 may continue to be employed in the positions listed in this Section after July 1, 2014. (Also see Section 25.337(c) of this Part.)

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

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

Section 25.337 Principal Endorsement (2012)

a) This endorsement is required for principals, assistant principals, assistant or associate superintendents, and staff filling other similar or related positions as indicated in 23 Ill. Adm. Code 1.705. (See also 23 Ill. Adm. Code 29.120.)

b) A principal endorsement shall be affixed to an administrative certificate provided that the candidate successfully completes each of the requirements specified in 23 Ill. Adm. Code 30 (Programs for the Preparation of Principals in Illinois) or has completed a comparable approved program in another state or country or holds a

comparable certificate issued by another state or country (see Section 25.425 of this Part). For the purposes of this subsection (b), "comparable" means:

1) The out-of-state program is offered by an institution that has received approval under Subpart C of this Part to offer a principal preparation program (see 23 Ill. Adm. Code 30); or

2) The individual seeking the endorsement has had his or her coursework and preparation program reviewed by an institution approved to offer a principal preparation program in Illinois; has successfully completed any deficiencies in that preparation that the institution has identified, as applicable; and has been recommended for entitlement by that institution.

c) An individual holding a general administrative endorsement issued pursuant to Section 25.335 of this Part may have that endorsement converted to a principal endorsement in accordance with the process set forth in Section 21-7.6 of the School Code [105 ILCS 5/21-7.6].

(Source: Added at 35 Ill. Reg. 16755, effective September 29, 2011)

SUBPART F: GENERAL PROVISIONS

Section 25.427 One-Year~~Three-Year~~ Limitation

a) An evaluation for purposes of issuing a certificate (rather than an additional endorsement on a previously held certificate) will be binding on the State Board of Education for only one year~~three years~~ after it is given. ~~At the close of that time, the evaluation and all relevant material will be discarded unless a certificate has been issued. However, should an individual apply for a certificate of a type for which a previously requested evaluation is still pending pursuant to this Section, the earlier application shall be invalidated and the relevant materials discarded immediately.~~

b) A recommendation for certification of a candidate by entitlement shall be valid for only one year~~three years~~ after its issuance by the institution. ~~An individual who wishes to rely upon completion of a program after the relevant recommendation has expired shall provide either:~~

~~1) verification from the institution that the program has not changed in the intervening time and a new recommendation by that institution for certification of the candidate by entitlement; or~~

~~2) a program completion form indicating that the program has changed and identifying the changes, which shall be reviewed by the State Superintendent of Education to determine whether any deficiencies must be remedied by the individual in order to qualify for the certificate sought.~~

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

Section 25.485 Certification of Persons with Certificates Previously Denied, Suspended, or Revoked

A previous denial of certification or another action against an individual's certificate may indicate that issuance, renewal, or registration of a certificate would also currently be inappropriate. Accordingly, each applicant for the issuance, renewal, or registration of an Illinois certificate or for the addition of another credential (e.g., endorsement, approval, designation), including any credential issued under Subpart G of this Part, shall be required to indicate on the relevant form whether he or she has ever had a certificate denied, suspended or revoked in Illinois or any other state.

a) Each individual providing an affirmative response to this question shall be required to submit a copy of the notice issued by the responsible agency in the state where the action occurred that includes:

1) the date of the action;

2) the reasons for the action;

3) any penalties that were imposed; and

4) the ending date of each penalty, if applicable.

b) Subject to subsection (c) of this Section, the~~The~~ State Superintendent of Education shall review the information submitted pursuant to subsection (a) of this Section and shall determine whether issuance, renewal, or registration of a certificate or issuance of one or more additional credentials, as applicable, is appropriate in light of the circumstances surrounding the previous denial or~~,~~

suspension~~, or revocation~~ (including the applicant's age and the background of the applicant at the time of the action), any penalty that was imposed, and any evidence the applicant has provided concerning his or her good character that may mitigate the defect in his or her record.

c) An application shall not be evaluated from an individual whose previous denial occurred five or fewer years from the date of application. An application from an individual who has had a certificate revoked either in Illinois or another state shall not be considered.

d) An application from an individual whose certificate had been suspended shall not be evaluated for a period of time that is equal to the length of the suspension. The start date of this waiting period shall begin on the day following the date on which the suspension was lifted. The provisions of this subsection (d) shall not apply to:

1) any application to register or renew the certificate that was subject to the suspention, provided that the certificate was maintained as vaid during the term of the suspention; and

2) any application to renew other certificates that were not subject to the suspension.

e) Submission of the application following the time period specified in subsection (c) of this Section is not a guarantee that the application will be approved and a certificate, endorsement, approval or designation issued. An individual may appeal the decision to deny the application in accordance with procedures set forth in the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and 23 Ill. Adm. Code 475 (Contested Cases and Other Formal Hearings).

f) An individual shall not be entitled to a refund of the application fee in the event that his or her application is subsequently denied.

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

Section 25.710 Definitions

For the purposes of this Subpart, the following definitions apply:

"Passing raw score" is the minimum number of multiple choice items that must be answered correctly on a given test or the combination of required correct responses to multiple choice items and required numerical value of constructed responses.

"Passing score" is the minimum scaled score a person must obtain in order to pass a test.

"Re-scoring" means the process of reviewing an examinee's answers and the scores assigned to them to confirm that a test score reported to an examinee is the score earned by him or her.

"Retake" is the opportunity for a person who has taken a test of the Illinois Certification Testing System at one test administration to take the test in the same area as given at subsequent administrations.

"Scaled score" is the person's test score after the mathematical transformation of the number of test items the person answered correctly to a scale of numbers on which the minimum score, the maximum score, and the passing score are set. Through May 31, 2006, for the tests of subject matter knowledge and language proficiency, the minimum scaled score is 0, the maximum score 100, and passing score 70. Beginning in June 2006, for the tests of subject matter knowledge (content-area tests) and language proficiency, the minimum scaled score is 100, the maximum score 300, and the passing score 240. For the assessment of professional teaching, the basic skills test, and any new content-area test first administered after December 31, 2002, the minimum scaled score is 100, the maximum score 300, and the passing score 240.

"Subarea score" is the scaled score for the subset of test items on a subject matter test or content-area test that measures specific content, and, for any test administration for which scores are reported before September 30, 2010, the "subarea score" is the scaled score for each subset of test items on the basic skills test which measures specific content in reading comprehension, writing, language arts, and mathematics.

"Test" or "Tests/Examination" or "Examinations" refers to the test of basic skills, the assessment of professional teaching, the language proficiency tests, and the tests/examinations of subject matter knowledge (or "content-area tests") for the

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Illinois Certification Testing System. Through June 30, 2004, these tests/examinations are:

Agriculture
Art (K-12)
Art (6-12)
Assessment of Professional Teaching – Early Childhood
Assessment of Professional Teaching – Elementary
Assessment of Professional Teaching – Secondary
Assessment of Professional Teaching – Special
Basic Skills
  Language Arts
  Mathematics
  Reading Comprehension
  Writing
Biological Science
Blind and Partially Sighted
Business/Marketing/Management
Chemistry
Chief School Business Official
Computer Science
Dance
Deaf and Hard of Hearing
Early Childhood
Educable Mentally Handicapped (required through June 30, 2003)
Elementary/Middle Grades (K-9)
English
English as a Second Language
English Language Proficiency
French
General Administrative
General Science
General Supervisory (available through June 30, 2003)
German
Guidance
Health
Health Occupations
Hebrew
History

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Family and Consumer Sciences
Industrial Technology Education
Italian
Latin
Learning Disabilities (required through June 30, 2003)
Learning Behavior Specialist I (required beginning July 1, 2003)
Learning Behavior Specialist II/Behavior Intervention Specialist (available July 1, 2003)
Learning Behavior Specialist II/Bilingual Special Education Specialist (available July 1, 2003)
Learning Behavior Specialist II/Curriculum Adaptation Specialist (available July 1, 2003)
Learning Behavior Specialist II/Deaf/Blind Specialist (available July 1, 2003)
Learning Behavior Specialist II/Multiple Disabilities Specialist (available July 1, 2003)
Learning Behavior Specialist II/Technology Specialist (available July 1, 2003)
Learning Behavior Specialist II/Transition Specialist (available July 1, 2003)
Mathematics
Media
Music (K-12)
Music (6-12)
Physical Education (K-12)
Physical Education (6-12)
Physically Handicapped (required through June 30, 2003)
Physical Science
Physics
Reading
Russian
School Nurse
School Psychology
School Social Work
Social/Emotional Disorders (required through June 30, 2003)
Social Science
Spanish
Speech
Speech-Language Pathologist: Nonteaching (available May 1, 2002)

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Speech-Language Pathologist: Teaching (available May 1, 2002)
Superintendent
Theatre Arts
Trainable Mentally Handicapped (required through June 30, 2003)
Transitional Bilingual Education
- Arabic
- Cantonese
- Greek
- Gujarati
- Hindi
- Japanese
- Korean
- Lao
- Mandarin
- Polish
- Russian
- Spanish
- Urdu
- Vietnamese

Beginning July 1, 2004, the Illinois Certification Testing System shall consist of the following tests in addition to the content-area tests applicable to certification in special education. Beginning with score reports issued after September 30, 2010, "test" or "tests" will also refer to subtests (reading comprehension, writing, language arts, and mathematics) of the basic skills test.

Agricultural Education
Assessment of Professional Teaching (through June 2013)
- Early Childhood
- Elementary
- Secondary
- Special

Assessment of Professional Teaching (prekindergarten through grade 12) (required beginning July 1, 2013)
Basic Skills
Business, Marketing, and Computer Education
Chief School Business Official
Computer Science

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Dance
Director of Special Education (required beginning July 1, 2005)
Drama/Theatre Arts
Early Childhood Education
Early Childhood Special Education
Elementary/Middle Grades (K-9)
English Language Arts
English Language Proficiency
English as a New Language
Family and Consumer Sciences
Foreign Languages
- Arabic (available in September 2008)
- Chinese (Cantonese or Mandarin)
- French
- German
- Hebrew
- Italian
- Japanese
- Korean
- Latin
- Russian
- Spanish

General Administrative (through August 2014)
Guidance (through June 30, 2005)
Health Education
Health Careers
Learning Behavior Specialist I
Learning Behavior Specialist II/Behavior Intervention Specialist
Learning Behavior Specialist II/Bilingual Special Education Specialist
Learning Behavior Specialist II/Curriculum Adaptation Specialist
Learning Behavior Specialist II/Deaf/Blind Specialist
Learning Behavior Specialist II/Multiple Disabilities Specialist
Learning Behavior Specialist II/Technology Specialist
Learning Behavior Specialist II/Transition Specialist
Library Information Specialist
Mathematics
Music
Physical Education
Principal (beginning September 1, 2012)

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Reading Teacher
Reading Specialist
School Counselor (beginning July 1, 2005)
School Nurse
School Psychologist
School Social Worker
Sciences
- Biology
- Chemistry
- Earth and Space Science
- Environmental Science
- Physics

Social Sciences
- Economics
- Geography
- History
- Political Science
- Psychology
- Sociology and Anthropology

Special Education General Curriculum (available May 1, 2005)
Speech-Language Pathologist: Nonteaching
Speech-Language Pathologist: Teaching
Superintendent
Technology Education
Technology Specialist
Transitional Bilingual Education – Language Proficiency
- Arabic
- Assyrian
- Bosnian
- Bulgarian
- Cantonese
- Filipino
- Greek
- Gujarati
- Hindi
- Japanese
- Korean
- Lao
- Malayalam

Mandarin
Polish
Russian
Serbian
Spanish
Urdu
Vietnamese
Visual Arts

"Test items" are specific questions asked on a test that require a person either to select the correct response from those alternative responses provided or to produce a written or oral response.

"Test objective" is a statement of the behavior or performance measured by test items.

"Unauthorized aids" are materials and devices that candidates are prohibited from bringing to a test administration. These include notes, calculators, calculator watches, calculator manuals, cellular phones, electronic communication devices, visual or audio recording or listening devices, and any other items whose use may compromise the security or validity of a test. However, any material or device that is permitted as part of an accommodation arranged pursuant to Section 25.740 of this Part shall not be considered an unauthorized aid. Furthermore, a calculator shall not be considered an unauthorized aid when its use is authorized pursuant to the current ICTS registration bulletin and the contractor's web site.

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

Section 25.720 Applicability of Testing Requirement and Scores

a) It is the individual's responsibility to take the appropriate tests. Upon request, the State Board of Education shall assist individuals in identifying appropriate tests.

b) Basic Skills Test
Except as provided in subsections (b)(1) and (3) of this Section, each candidate seeking his or her first Illinois certificate (teaching, administrative, or school service personnel) shall be required to pass the test of basic skills. Further, Section 21-1a(d) of the School Code requires passage of this test as a prerequisite

to enrollment in an Illinois teacher preparation program beginning with the 2002-2003 academic year.

1) A person who has passed the test of basic skills as a condition of admittance to an Illinois preparation program approved pursuant to Subpart C of this Part shall not be required to retake that test.

2) A person who has passed the basic skills test and has been issued an Illinois certificate on the basis of the test shall not be required to retake the basic skills test when seeking any subsequent certificate.

3) *A person who passed another state's test of basic skills as a condition of certification or of admission to a teacher preparation program shall not be required to pass this State's test of basic skills.* (Section 21-1a of the School Code [105 ILCS 5/21-1a])

4) The provisions of subsection (b)(3) of this Section notwithstanding, any individual who has attempted the Illinois basic skills test without passing it shall be required to pass it in order to qualify for an Illinois certificate.

5) When a person who was not required to take the basic skills test pursuant to subsection (b)(3) of this Section seeks a subsequent Illinois certificate, he or she shall be required to pass the Illinois test of basic skills. However, a person applying for another Illinois certificate based on an additional out-of-state certificate or qualifications shall be treated as an out-of-state applicant and shall be subject to subsection (b)(3) of this Section.

6) The basic skills test will be administered as four separate subtests: reading, language arts, mathematics, and writing.

   A) Individuals may take all four subtests or any combination of the individual subtests during a single test administration.

   B) Scores on basic skills subtests can be "banked~~;~~", and an individual will not be required to take a subtest again once he or she has achieved a passing score.

C) Each test administration of the basic skills test in which an examinee participates shall count toward the testing limit established under subsection (h) of this Section, regardless of the number of subtests the examinee includes as part of that particular test administration.

c) Content-Area Tests

1) Each candidate seeking an Illinois certificate, whether his or her first certificate or a subsequent certificate, shall be required to pass a content-area test. The required content-area test is that which corresponds to the approved program completed or the endorsement for which the applicant otherwise qualifies. Further, Section 21-1a(d) of the School Code requires passage of this test for program completion. No waivers or exemptions are available.

2) A person who has passed a test of language proficiency in order to qualify for a transitional bilingual certificate and received that certificate shall not be required to retake that test in order to qualify for a bilingual education credential on another certificate received later. A person who has passed a test of language proficiency as a condition of admission to an Illinois preparation program shall also not be required to retake that test.

d) Assessment of Professional Teaching (APT)
Each candidate seeking his or her first Illinois early childhood, elementary, secondary, or special certificate shall be required to pass the APT relevant to the certificate sought (see Section 25.710 of this Part). A candidate seeking a subsequent teaching certificate of one of these types must also pass the APT relevant to the certificate sought, unless he or she either:

1) has already passed an APT that encompasses the grade levels of the subsequent certificate sought; or

2) already holds another Illinois teaching certificate that encompasses the grade levels of the certificate sought.

e) Except as provided in subsections (b)(1), (c)(2), and (d)(1) of this Section, for each person seeking an Illinois certificate, no score on a required test may be more than ten years old at the time application is made. The ten-year period shall

be calculated from the date the test was taken and passed to the date of receipt of the application by the State Board of Education. Scores more than ten years old will not be accepted as part of an application.

1) The ten-year period discussed in this subsection (e) shall apply to each score that forms part of an application received on or after July 1, 2008.

2) The ten-year period discussed in this subsection (e) shall also apply to each score that forms part of an application that is pending as of June 30, 2008, and to each score that forms part of an application for which an evaluation is still valid as of that date pursuant to Section 25.427 of this Part.

f) Subject to registration in accordance with the provisions of this Subpart I, the provisions of Section 25.755(g)(1) of this Part, and the limitations of subsection (h) of this Section, an individual who has taken a paper-and-pencil test may retake that test during any subsequent, regularly scheduled administration of that test in paper-and-pencil format and may retake that test by computer during any subsequent computer-based test administration.

g) Subject to registration in accordance with the provisions of this Subpart I, the provisions of Section 25.755(g)(1) of this Part, and the limitations of subsection (h) of this Section, an individual who has taken a computer-based test may retake that test by computer after no fewer than 120 days but also may retake that test during any subsequent, regularly scheduled administration of the test in paper-and-pencil format.

h) Subsequent to January 12~~1~~, 2010, no individual may attempt to pass the same test more than five times in any combination of the two formats (i.e., computer-based test or paper-and-pencil format).

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

SUBPART J: RENEWAL OF STANDARD AND MASTER TEACHING CERTIFICATES

Section 25.840 Action by State Teacher Certification Board; Appeals

a) The State Teacher Certification Board shall review each recommendation regarding the renewal of a certificate within the time allotted by Section 21-14(h)

of the School Code [105 ILCS 5/21-14(h)] and verify that the certificate-holder has met the renewal criteria set forth in Section 21-14(g)(1) of the School Code [105 ILCS 5/21-14(g)(1)], subject to the certificate-holder's right of appeal as specified in that Section.

b) Within 60 days after receipt of an appeal filed by a certificate-holder challenging a regional superintendent's recommendation for nonrenewal, the State Teacher Certification Board shall hold an appeal hearing. The Board shall notify the certificate-holder of the date, time, and place of the hearing.

1) The certificate-holder shall submit to the State Teacher Certification Board such additional information as the Certification Board determines is necessary to decide the appeal.

2) *The State Teacher Certification Board may request that the certificate-holder appear before it.* (Section 21-14(h)(2) of the School Code [105 ILCS 5/21-14(h)(2)]) The certificate-holder shall be given at least ten days' notice of the date, time, and place of the hearing.

3) In verifying whether the certificate-holder has met the renewal criteria set forth in Section 21-14(g)(1) of the School Code, *the State Teacher Certification Board shall review:*

A) *the recommendation of the regional superintendent of schools;*

B) *the Regional Professional Development Review Committee's recommendation, if any;*

C) *the Local Professional Development Committee's recommendation, if any; and*

D) *all relevant documentation.*

c) The State Teacher Certification Board shall notify the certificate-holder of its decision regarding certificate renewal as set forth in Section 21-14(h)(2) of the School Code [105 ILCS 5/21-14(h)(2)]. Upon receipt of notification of renewal, the certificate-holder shall pay the applicable registration fee to the regional superintendent. If the decision is not to renew the individual's certificates, the notification shall state the reasons for that decision.

1) An individual whose certificate is not renewed because of his or her failure to complete professional development in accordance with this Subpart J may apply for a reinstated certificate, as defined in Section 25.450(c) of this Part, valid for one year. The reinstatement period shall begin July 1 of the year in which the certificate expires.

2) After the one-year period of validity of the reinstated certificate, the individual shall receive a renewable standard certificate only if he or she presents evidence of having:

A) completed the balance of the professional development activities that were required for renewal of the certificate previously held; and

B) earned five additional semester hours of credit in a recognized institution of higher learning in the field of professional education or in courses related to the holder's contractual teaching duties.

d) The State Teacher Certification Board shall not renew any certificate if information provided on the application makes the holder subject to the requirements of any of Sections 25.485 through 25.490 of this Part. Any disciplinary action taken against a certificate-holder under any of those Sections shall be in accordance with the rules of the State Board of Education for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475). The decision of the State Board of Education is a final administrative decision and shall be subject to administrative review as set forth in Section 21-24 of the School Code [105 ILCS 5/21-24].

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

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Section 25.APPENDIX E Endorsement Structure Beginning July 1, 2004

Section 25.100 of this Part explains the applicability of "designations" where shown as required in the following table. ~~An asterisk next to the name of an endorsement or designation indicates that there is no content-area test for that credential.~~ The relevant provisions of Section 25.100(e) of this Part shall apply in ~~those~~ cases in which no test is available (see Section 25.710).

Endorsements Currently Available ~~as of July 1, 2004~~	Designations	Endorsements ~~Previously~~ Issued Prior to July 1, 2004
Fundamental Learning Areas		
English Language Arts	None	English Journalism Language Arts Speech
Reading Teacher	None	Reading
Reading Specialist	None	Reading
Mathematics	None	Mathematics
Sciences – Designation ~~or Limited Endorsement under Section 25.100(h)(5)~~ Required	Biology Chemistry Earth and Space Science Environmental Science Physics	Biological Science/Biology Botany Physiology Zoology Chemistry Aerospace Astronomy Earth Science Geology Physical Geography/Physiography Biological Science Physical Science General Science Physics

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Endorsements Currently Available ~~as of July 1, 2004~~	Designations	Endorsements ~~Previously~~ Issued Prior to July 1, 2004
Social Sciences – Designation or Limited Endorsement under Section 25.100(h)(5) Required	Economics Geography History Political Science Psychology Sociology and Anthropology	Economics Geography ~~History~~ U.S. History World History Political Science Psychology Anthropology Sociology
Physical Education	None	Physical Education
Health Education	None	Health Education
Dance	None	Dance
Drama/Theatre Arts	None	Theatre and Drama
Music	None	Music Instrumental Music Vocal Music
Visual Arts	None	Art
Foreign Languages – Designation Required	Arabic (2008) Chinese (Cantonese or Mandarin) French German Hebrew Italian Japanese Korean Latin Russian Spanish Other foreign languages, provided the candidate completed a major in the	Arabic~~None~~ Cantonese, Mandarin~~None~~ French German Hebrew Italian Japanese~~None~~ Korean~~None~~ Latin Russian Spanish Other foreign languages, as applicable

	foreign language designated	

Endorsements Currently Available ~~as of July 1, 2004~~	Designations	Endorsements ~~Previously~~ Issued Prior to July 1, 2004
Additional Teaching Fields		
Agricultural Education	None	Agricultural Business and Management Agriculture Agricultural Power and Machinery Horticulture Agricultural Resources
Business, Marketing, and Computer Education – Designation Optional	Business Computer Programming*	Accounting Basic Business Business Computer Programming Business/Marketing/ Management Information Processing Information Processing/ Secretarial Marketing
Computer Applications	None	None
Computer Science	None	None
Family and Consumer Sciences – Designation Required	Apparel and Textiles* Living Environments* Nutrition, Wellness, and Hospitality*	Child and Day Care Services Consumer Education and Resource Management Fashion and Clothing Services Food and Nutrition Services Home Economics Institutional and Home Management Services Interior Furnishings Services/Living Environments

		Interpersonal, Family Relationships, Parenting

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Endorsements Currently Available ~~as of July 1, 2004~~	Designations	Endorsements ~~Previously~~ Issued Prior to July 1, 2004
~~Health Careers~~	~~None, but licensure in a specific occupation is required~~	~~Health Occupations~~
Technology Education	None	Industrial Technology Education Construction Electronics Graphic Communications Transportation Manufacturing Industrial Technology Public Service Drafting/Design Autobody Repair Heating, Ventilation, and Air Conditioning
Technology Specialist	None	Computer Technology Instructional Technology
Library Information Specialist	None	Media
Safety and Driver Education*	None	Safety and Driver Education
Bilingual Education	Target Language	Bilingual Education with a Target Language Designation
English as a New (Second) Language (ENL) – Designation Optional	Bilingual Education (language-specific)	Bilingual Education English as a Second Language
Middle School~~Middle-Level~~	Subject-specific	Middle-Grades Junior High School
Elementary		
Self-Contained General ~~Elementary~~ Education	None	Self-Contained General Education

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Endorsements Currently Available ~~as of July 1, 2004~~	Designations	Endorsements ~~Previously~~ Issued Prior to July 1, 2004
Early Childhood		
~~Early Childhood~~	~~None~~	~~Early Childhood~~
Early Childhood Special Education	None	
Self-Contained General Education	None	Early Childhood
Administrative		
Chief School Business Official		Chief School Business Official
Director of Special Education		Director of Special Education
General Administrative (through June 30, 2014)		General Administrative
Principal (2012)		General Administrative
Superintendent		Superintendent
School Service Personnel		
School Counselor		Guidance
School Nurse		School Nurse
School Psychologist		School Psychologist
School Social Worker		School Social Worker
Non-Teaching Speech-Language Pathologist		Non-Teaching Speech-Language Pathologist
Supervisory	None; see Sections 21-4 and 21-25 of the School Code and Section 25.497 of this Part.	Supervisory

(Source: Amended at 35 Ill. Reg. 16755, effective September 29, 2011)

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Agricultural Education Program

2) Code Citation: 23 Ill. Adm. Code 75

3)

Section Numbers:	Adopted Action:
75.10	Amendment
75.20	Amendment
75.40	Amendment
75.200	New Section
75.210	New Section
75.220	New Section
75.230	New Section
75.240	New Section
75.250	New Section
75.260	New Section
75.300	New Section
75.310	New Section
75.320	New Section
75.330	New Section
75.340	New Section
75.350	New Section
75.400	New Section
75.410	New Section
75.420	New Section
75.430	New Section
75.435	New Section
75.440	New Section

4) Statutory Authority: 105 ILCS 5/2-3.80, 2-3.80a and 2-3.6

5) Effective Date of Amendments: September 29, 2011

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: June 10, 2011; 35 Ill. Reg. 8714

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

11) Differences between proposal and final version: In Section 75.230(c), clarification was added at the end of the subsection about the type of evidence required to show participation in international activities.

In Section 75.300, the type of entities eligible for the grants was modified to regionally accredited institutions of higher education and not-for-profit entities.

In Section 75.320(c), the option of faculty providing candidates with information about other endorsement opportunities was clarified, and in Section 75.320(h), the phrase "at least" was removed.

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 other proposed rulemakings pending on this Part? No

15) Summary and Purpose of Amendments: The need for this rulemaking was identified in November 2008 when the Joint Committee on Administrative Rules (JCAR), during its review of new Part 75 (Incentive Grants for Agricultural Science Teacher Education), recommended that the agency promulgate rules that set forth the funding criteria and application procedures for projects authorized under 105 ILCS 5/2-3.80 of the School Code ("Agricultural Education Program"). That law was put in place in 1986 and was amended, effective January 1, 2007, to add areas of focus for secondary agricultural education programs offered by school districts. While no rulemaking was conducted at that time, the agency agreed in its response to JCAR's recommendation that the policy decisions regarding the various grants necessitated rulemaking.

The changes in Part 75 add three long-standing programs to the rules. These are incentive grants for secondary education programs (Subpart B), incentive grants for universities (Subpart C), and resources and support for secondary agricultural education programs statewide (Subpart D). Each new Subpart sets forth the purpose of the particular grant, the eligible applicants, application procedures, the basis upon which grant awards will be determined, and the conditions under which a funded entity must operate. Additionally, the requirements placed in the rules are identical to the way in which these grant programs have operated for the last 15 years or so.

- **Incentive Grants for Secondary Agricultural Education and Incentive Grants for Agricultural Teacher Preparation Programs**: Both of these programs are unique in that the amount of funding to which an eligible applicant is entitled is based on a formula, but an applicant's current achievement of individual program standards, called "quality indicators", will determine the amount of the final grant awarded. In other words, all eligible applicants will receive some level of funding and as their programs improve, their grant amounts in succeeding years will increase.

  The goals for both programs, as well as the minimum standards that must first be met and any accompanying quality indicators for each of these standards, are taken from the state plan for agricultural education titled "Opportunities for ALL Students through Quality Agricultural Education". The plan, originally adopted in 1987 and last revised in 2007, is developed by the Illinois Leadership Council for Agricultural Education, authorized under Section 2-3.80 of the School Code.

- **Facilitating the Coordination of Agricultural Education (FCAE)**: The FCAE project provides support and resources primarily to secondary agricultural education programs. Activities are focused on curriculum improvement, classroom resources, program improvement, professional development and data collection. The work is provided throughout the State, with project advisors located in each of the five districts established by the Illinois Association of Vocational Agricultural Teachers.

  The rules will guide the formulation of the RFP for FCAE and limit any grant awarded to a five-year period. In the years after the initial grant year, the grantee will complete a shortened continuation application. Following the end of the grant period, a new RFP will be issued to solicit interested applicants.

It is anticipated that in FY 2012, $590,000 will be available for secondary agricultural education incentive grants; $20,000 for agricultural teacher education incentive grants; and $1,090,000 for the facilitation and coordination project.

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

Mark Williams, Division Administrator
Division of Career and Technical Education 217/782-4620
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777

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NOTICE OF ADOPTED AMENDMENTS

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 75
AGRICULTURAL EDUCATION PROGRAM ~~INCENTIVE GRANTS FOR AGRICULTURAL SCIENCE TEACHER EDUCATION~~

SUBPART A: INCENTIVE GRANTS FOR AGRICULTURAL SCIENCE TEACHER EDUCATION

Section
75.10 Purpose and Applicability
75.20 Eligible Applicants
75.30 Application Procedure
75.40 Program Specifications; Allowable Expenditures
75.50 Criteria for the Review of Proposals; Allocation of Funds

SUBPART B: INCENTIVE GRANTS FOR SECONDARY AGRICULTURAL EDUCATION

Section
75.200 Purpose and Applicability
75.210 Eligible Applicants
75.220 Program Goals and Minimum Standards
75.230 Quality Indicators
75.240 Determination of Individual Grant Allocations
75.250 Application Procedure
75.260 Terms of the Grant

SUBPART C: INCENTIVE GRANTS FOR AGRICULTURAL TEACHER PREPARATION PROGRAMS

Section
75.300 Purpose and Eligible Applicants
75.310 Program Goals and Minimum Standards
75.320 Quality Indicators
75.330 Determination of Individual Grant Allocations
75.340 Application Procedure
75.350 Terms of the Grant

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SUBPART D: FACILITATING THE COORDINATION OF AGRICULTURAL EDUCATION

Section
75.400 Purpose and Objectives
75.410 Eligible Applicants
75.420 Application Procedure for Initial Proposals
75.430 Criteria for the Review of Initial Proposals; Allocation of Funds
75.435 Application Content and Approval for Continuation Programs
75.440 Terms of the Grant

AUTHORITY: Implementing Sections 2-3.80 and 2-3.80a of the School Code and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.80, 2-3.80a and 2-3.6].

SOURCE: Adopted at 32 Ill. Reg. 19170, effective November 26, 2008; amended at 35 Ill. Reg. 16839, effective September 29, 2011.

SUBPART A: INCENTIVE GRANTS FOR AGRICULTURAL SCIENCE TEACHER EDUCATION

Section 75.10 Purpose and Applicability

This Subpart A~~Part~~ establishes the application procedure ~~for~~ and criteria for the allocation of grant funds to eligible institutions of higher education under the agricultural science teacher education program established pursuant to~~under~~ Section 2-3.80a of the School Code [105 ILCS 5/2-3.80a].

(Source: Amended at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.20 Eligible Applicants

Eligible applicants under this Subpart A~~Part~~ shall be as specified in Section 2-3.80a of the School Code, provided that *public community colleges that provide an articulated agriculture science teacher education course of study* [105 ILCS 5/2-3.80a] are only those that offer at least:

a) the introductory agricultural education course for which transfer credit is accepted by the public universities under the Illinois Articulation Initiative (see the information posted by the Illinois Board of Higher Education at www.itransfer.org); and

b) a one-semester-hour internship or other, equivalent field experience.

(Source: Amended at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.40 Program Specifications; Allowable Expenditures

Funds provided pursuant to this Subpart A~~Part~~ may be expended only for activities and initiatives conducted in accordance with ~~subsection (b) of~~ Section 2-3.80a(b) of the School Code and this Section.

a) For purposes of this Subpart A~~Part~~, "teacher education candidate recruitment and retention initiatives" include:

1) the identification of students in grades~~Grades~~ 11 and 12 who may be interested in pursuing agricultural education as a profession; and

2) activities and strategies that are designed to attract these and other students to teaching in agricultural education, including, but not limited to:

A) introducing the students to multiple aspects of agricultural work and agricultural education in Illinois;

B) providing mentors or other forms of personal support to the students as they determine whether to pursue careers as agricultural education teachers and as they progress through the teacher preparation program; and

C) providing scholarships, stipends, or other forms of financial or in-kind support that will make completion of a teacher preparation program in agricultural education more affordable and accessible to students from a broad range of backgrounds.

b) Each institution that elects to deliver professional development experiences for new teachers shall first seek approval as a provider of professional development for teachers in this field under the applicable provisions of the rules of the State Board of Education for Certification (see 23 Ill. Adm. Code 25.855~~, 25.870,~~ and 25.872).

c) For purposes of this Subpart A~~Part~~:

1) a "master teacher" is a teacher with no fewer than six years of teaching experience, ending no more than ten years prior to submission of an application under this Subpart A~~Part~~, in the field of agricultural education, exclusive of teaching experience on a provisional vocational or temporary provisional vocational certificate; and

2) a "practitioner" is an individual who, as demonstrated by the institution's proposal narrative:

A) is currently engaged, or has been engaged within the previous 10 years, in an agricultural occupation requiring knowledge and skills in agricultural science, agricultural mechanization, agricultural business, horticulture, or agricultural resources; or

B) holds a provisional vocational certificate endorsed for a skill area related to agricultural education and is currently teaching, or has taught within the previous 10 years, in a position requiring that certificate.

d) A university shall expend no more than 5~~five~~ percent of the grant funds received for professional development for the staff of its agricultural education teacher preparation program.

e) Activities shall be supported by funding under this Subpart A~~Part~~ only to the extent that they do not duplicate or supplant efforts already conducted by or under the auspices of the community college or university. The use of grant funds for administrative expenditures shall be limited to amounts demonstrably necessary for the implementation or coordination of additional activities under this Subpart A~~Part~~.

(Source: Amended at 35 Ill. Reg. 16839, effective September 29, 2011)

SUBPART B: INCENTIVE GRANTS FOR SECONDARY AGRICULTURAL EDUCATION

Section 75.200 Purpose and Applicability

This Subpart B establishes the application procedure and criteria for the allocation of grant funds to eligible school districts and area vocational centers under Section 2-3.80 of the School Code [105 ILCS 5/2-3.80] to expand and improve the academic content areas within agricultural education.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.210 Eligible Applicants

Eligible applicants under this Subpart B shall be as specified in Section 2-3.80 of the School Code. For purposes of eligibility, an "approved agricultural education program" is one that:

a) offers a series of courses that are sequential in one or more fields of study listed at http://www.agriculturaleducation.org/Ag-Ed%20Programs/Course-Career%20Pathways and includes:

1) at least one introductory course and one higher level course for which no less than two credits, as defined in 23 Ill. Adm. Code 1.440(c) (Additional Criteria for High Schools), are awarded for the successful completion of the course sequence; and

2) courses with content that aligns with the courses approved by the State Board of Education and listed at http://www.agriculturaleducation.org/Ag-Ed%20Programs/Course-Career%20Pathways;

b) unless otherwise exempt under the provisions of Section 2-3.80 of the School Code, includes a State and nationally affiliated chapter of the National FFA Organization;

c) provides for supervised agricultural experiences (also see Section 75.220(d) of this Part); and

d) employs qualified instructional staff, each of whom either:

1) holds a current and valid teaching certificate for grades 6 through 12 endorsed for agricultural education as set forth in 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision) and has 2,000 hours of work experience in a field related to agriculture, food or natural resources; or

2) holds a provisional, temporary provisional or part-time provisional vocational certificate issued pursuant to 23 Ill. Adm. Code 25 (Certification) and endorsed for a skill area related to agricultural education. (See 23 Ill. Adm. Code 25.70, 25.72 or 25.75, respectively.)

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.220 Program Goals and Minimum Standards

This Section presents the goals and the accompanying minimum standards of each goal that are associated with high-quality agricultural education programs offered in high school settings.

a) Goal 1: Teachers are qualified and certified by the State Board of Education to teach the programs and courses assigned.

Minimum Standards: Each of the teaching staff is appropriately certified for the coursework in which he or she is providing instruction under the agricultural education program during the grant year.

b) Goal 2: Support services are available to all students in agricultural programs.

Minimum Standards:

1) The agricultural education teacher shall meet at least annually with each student enrolled in the agricultural education program to provide advice and counseling relative to the student's career objectives.

2) The agricultural education teacher shall meet annually with the school's guidance counselor to review information at http://www.agriculturaleducation.org regarding career opportunities, scholarships, course offerings and other pertinent information that will assist students in meeting postsecondary and career objectives.

c) Goal 3: The instructional programs in agriculture are competency-based and include skills, knowledge and attitudes required for gainful employment in the occupations identified in the career pathways and are sequentially structured.

Minimum Standards:

1) The program shall offer a balance of classroom, laboratory, field-based and industry-based agricultural experiences (also see subsection (d) of this Section).

2) Written lesson plans shall contain clearly stated goals, objectives, activities and experiences that relate to the school's School Improvement Plan.

d) Goal 4: Each agricultural education teacher uses an ongoing supervised agricultural experience program as part of the instructional program.

Minimum Standards: Each program shall include a supervised agricultural experience program that requires students to apply the lessons presented in the classroom or laboratory instruction to activities and projects beyond the classroom.

e) Goal 5: The National FFA Organization is an integral part of the instructional program in agriculture.

Minimum Standards: The program shall incorporate into the curriculum opportunities to develop leadership skills through local, State and national FFA chapters in the agricultural education program.

f) Goal 6: Each school conducting an agricultural education program provides adequate facilities, learning laboratories, equipment and supplies for effective operation of the program.

Minimum Standards: The facilities, equipment and supplies available to students shall enable them to have hands-on experiences that replicate up-to-date, realistic situations similar to what is occurring in the agriculture careers for which training is provided.

g) Goal 7: The program of instruction in agricultural education is advised by a committee that is representative of all agricultural interests of the community.

Minimum Standards: The school shall establish an agricultural advisory committee whose membership shall consist of representatives of the agriculture industries operating in the community. The committee shall meet at least once a year to advise the school on the program being offered.

h) Goal 8: The agricultural education teacher is involved in assessing the areas needed for literacy and agricultural education for the prekindergarten through adult audiences and provides or assists in providing programs to meet the needs identified in the community.

Minimum Standards: The agricultural education teacher assists in the coordination of agricultural education awareness and agriculture literacy activities for prekindergarten through adult audiences.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.230 Quality Indicators

Each quality indicator is intended to measure an applicant's achievement of the goal to which it applies. (See Section 75.220 of this Part.) The application for funding required under Section 75.250 of this Part shall list the specific quality indicators to be considered in a given funding cycle and their values, which shall range from 0 to 10. The total value of an individual application shall be considered on a 100 percent basis. That is, the percentage of the total represented by any quality indicator will be such that the total percentages of all quality indicators equal 100 percent.

a) Goal 1: Not to exceed 30 percent of the total value available. Include, at a minimum, consideration of the teacher's affiliation with professional organizations, length of employment, leadership activities, professional development and other continuing education activities, college-level teaching or mentoring, and "highly qualified" status as determined under 23 Ill. Adm. Code 25.Appendix D (Criteria for Identification of Teachers as "Highly Qualified" in Various Circumstances).

b) Goal 2: Not to exceed 10 percent of the total value available. Include, at a minimum, maintenance of student portfolios and/or career plans, provision of accommodations for students with disabilities or other special needs, and assistance raising students' awareness about agricultural careers or postsecondary agricultural education.

c) Goal 3: Not to exceed 25 percent of the total value available. Include, at a minimum, acceptance of at least one agriculture course to meet high school graduation requirements; State-approved courses, as defined in Section 75.220 of this Part, that are offered separately or as part of other coursework; curriculum planning and course integration aligned to the Illinois State Goals for Learning (23 Ill. Adm. Code 1.Appendix D) and supportive of the applicant's School Improvement Plan; articulation with or provisions for dual credit with postsecondary institutions; inclusion of technology-based instruction, recruitment activities and career development events; use of standardized instructional and

assessment systems; and teacher participation in international activities, the purpose of which is directly related to agriculture, as evidenced by an itinerary, certification of participation, correspondence from activity organizers, etc., presented as part of the application.

d) Goal 4: Not to exceed 25 percent of the total value available. Include, at a minimum, involvement in supervised agricultural experience programs that include classroom instruction, independent study, applied learning experiences, and record-keeping activities, starting in the first semester of the school year; experiences may include award contests and agricultural education fairs or exhibits.

e) Goal 5: Not to exceed 25 percent of the total value available. Include, at a minimum, instruction and activities specific to leadership development and participation of the agricultural education teacher and program in various activities and programs of a locally, State or nationally sponsored FFA organization or related agricultural organizations.

f) Goal 6: Not to exceed 15 percent of the total value available. Include, at a minimum, classroom space of at least 600 square feet and adjacent laboratory facilities and equipment suitable for a range of agriculture specialties (e.g., plant, animal, mechanics, computer, agri-science); suitable office and storage space; inventory of equipment and designation of equipment; program budget; and receipt of grant resources other than a grant received under this Subpart B.

g) Goal 7: Not to exceed 15 percent of the total value available. Include, at a minimum, an agricultural advisory committee that meets at least twice a year, conducts programmatic reviews in conjunction with the school administration, and provides written recommendations about the program to the district.

h) Goal 8: Not to exceed 15 percent of the total value available. Include, at a minimum, activities specific to enhancing prekindergarten through grade 12 students' awareness about and career exploration in agriculture (e.g., fairs and expositions, job-shadowing); offering community education; and offering courses in grades 7 and 8, with National FFA Organization membership.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.240 Determination of Individual Grant Allocations

Individual grant allocations shall be determined by the applicant's achievement of one or more of the minimum standards and of one or more of the quality indicators established for each standard the applicant achieves. (See Sections 75.220 and 75.230 of this Part.)

a) Programs in operation for three or more years

1) The grant allocation to which each eligible applicant is entitled shall be determined no later than September 15 of each fiscal year.

2) A multiplier shall be used to weight each quality indicator that the applicant has achieved and for which achievement has been verified by State Board of Education staff through the application review process.

3) A dollar value for the multiplier shall be calculated by dividing the appropriation for the funding year by the total value of all quality indicators claimed and verified in the applications received as of the due date specified in Section 75.250 of this Part.

4) To determine an individual applicant's grant allocation, the dollar value of the multiplier shall be multiplied by the total value of quality indicators that the applicant has achieved and State Board of Education staff has verified.

b) All programs in operation for two years or fewer shall receive a flat grant, the amount of which shall be set forth in the application for each funding cycle. An applicant's achievement of any of the minimum standards and quality indicators shall not affect the amount to which it is entitled.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.250 Application Procedure

The grant application is a measure of the components of a high-quality agricultural education program that the applicant currently has in place, and it is intended to help the applicant identify areas in which the program can be enhanced and improved.

a) The State Superintendent of Education shall provide the electronic application format for the agricultural education incentive grant.

b) The application shall be completed by the applicant's agricultural education teachers and submitted to the State Board of Education's Division of Career and Technical Education no later than July 15. The application shall contain:

1) an indication of the applicant's achievement, in the year previous to the year for which funding is requested, of one or more of the minimum standards and of one or more of the accompanying quality indicators for the minimum standard achieved;

2) evidence or other documentation of the applicant's achievement of any standard or quality indicator, which shall be kept on file and provided to the staff of the State Board of Education's Division of Career and Technical Education upon request; and

3) such certifications, assurances, and program-specific terms of the grant as the State Superintendent may require (also see Section 75.260 of this Part).

c) No later than October 15, the applicant shall submit to the Division of Career and Technical Education a budget description for the grant year that will be based either on the applicant's grant allocation or flat grant amount for programs in operation for two years or fewer. (See Section 75.240 of this Part.) The budget description shall at least list for each line item a detailed explanation of each expenditure.

1) Allowable expenditures include, but are not limited to, activities that support the improvement of instruction or program improvements (e.g., curriculum development, professional development, field support services, program coordination and pilot projects). Mileage may be charged to the grant only for travel associated with supervised agricultural experience visits. The rate of reimbursement will be specified in the application.

2) Nonallowable expenditures include, but are not limited to, professional organization or union dues; college tuition; purchase of agricultural inputs (e.g., crop, animal); operation, maintenance, or repair costs of school laboratory machines and implements; utilities (e.g., heating, cooling, telephone); ordinary, non-specialized classroom furniture; and food and lodging.

3) No more than 50 percent of the applicant's allocation shall be expended for extended contracts (i.e., those that exceed nine months) or stipends, and no more than 10 percent of the allocation shall be expended for consumables.

d) Applicants may be requested to clarify various aspects of their proposals. The content of the approved proposal shall be incorporated into a grant agreement to be signed by the applicant's authorized representative and the State Superintendent of Education or designee.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.260 Terms of the Grant

a) The grantee shall maintain on file documentation specific to its achievement of each quality indicator set forth on the application for funding; the documentation shall be made available for programmatic review and auditing purposes. Up to 10 percent of grantees receiving funding under this Subpart B in each fiscal year may be selected for an on-site review and/or audit.

b) In the event that the grantee closes its agricultural education department, all instructional materials, tools and equipment purchased with funds provided under this Subpart B shall be relocated by the grantee's Education for Employment Regional Delivery System to other agricultural education programs located in that system upon approval of the State Superintendent of Education or designee.

c) No subcontracting will be allowed without the prior written approval of the State Superintendent of Education.

d) Reporting

1) Each grantee shall submit to the State Board of Education's Division of Career and Technical Education, no later than 20 days after the end of the grant period, a final budget; this document will serve as the grantee's final report for the year.

2) Prior to the final reporting deadline specified in subsection (d)(1) of this Section, each grantee shall submit to its Education for Employment Regional Delivery System director documentation of expenditures and/or

information regarding the activities provided with funds awarded under this Subpart B.

e) A grantee that employs any teacher who holds a temporary provisional vocational certificate shall ensure that the teacher submits documentation to the State Board of Education of his or her completion during the grant year of the coursework that is required under 23 Ill. Adm. Code 25.72 (Temporary Provisional Vocational Certificate).

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

SUBPART C: INCENTIVE GRANTS FOR AGRICULTURAL TEACHER PREPARATION PROGRAMS

Section 75.300 Purpose and Eligible Applicants

This Subpart C establishes the application procedure and criteria for the allocation of grant funds under Section 2-3.80 of the School Code to regionally accredited institutions of higher education or not-for-profit entities that offer teacher preparation programs in agricultural education approved pursuant to 23 Ill. Adm. Code 25 (Certification).

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.310 Program Goals and Minimum Standards

This Section presents the goals for teacher preparation programs in agricultural education and the accompanying minimum standards of each that are associated with high-quality preparation programs.

a) Goal 1: A continuing program of recruitment is undertaken to ensure that a sufficient number of competent agricultural education teachers are prepared to meet the demand for new teachers in Illinois.

Minimum Standards:

1) A program is offered in which students may transfer credit earned in agricultural education coursework from other postsecondary institutions.

2) Each student who progresses to student teaching must have a 3.5 grade point average on a 5.0 scale or a 2.5 grade point average on a 4.0 scale.

3) A minimum of one faculty member of the program is responsible for recruitment of students, including women and minorities, for the agricultural education teacher preparation program, as outlined in a written recruitment plan developed in conjunction with the program advisory committee.

b) Goal 2: Practicing professionals and outstanding undergraduate students in agriculture are identified, selected and supported to develop their leadership potential through master's and, when appropriate, doctoral study in numerous areas of need in agriculture.

Minimum Standards: Graduate-level credit is awarded to students seeking advanced degrees in agricultural education through courses and/or workshops taught by agricultural education faculty.

c) Goal 3: The agricultural education faculty have regular contact with students majoring in agricultural education to ensure that they are progressing in their degree program and toward obtaining teacher certification; faculty answer questions and solve problems of currently enrolled students and provide counsel to prospective students for a degree program in agricultural education.

Minimum Standards: All students enrolled in agricultural education are advised by agricultural education faculty.

d) Goal 4: Students preparing to teach agriculture are knowledgeable about a variety of teaching methods prior to beginning the student teaching experience. Teacher quality is demonstrated by technical and professional competence. Teacher preparation graduates must possess a well-developed repertoire of teaching skills.

Minimum Standards:

1) A methods course in teaching agriculture is required prior to beginning the student teaching experience.

2) A minimum of 12 weeks is spent student teaching under the guidance of a cooperating teacher who meets the requirements set forth in Section 75.210(d) of this Part.

3) Adult education principles are taught as a part of a required agricultural education course.

e) Goal 5: Students preparing to teach agriculture are technically competent in their specialty teaching area.

Minimum Standards:

1) All agricultural education graduates must complete at least 40 hours of agricultural courses.

2) Chemistry and biology courses are required for agricultural education students.

f) Goal 6: The agricultural education staff provides a clearinghouse and counseling service for graduating seniors and other newly qualified agricultural education teachers to ensure that the highest proportion of newly trained teachers are placed in agricultural teaching positions.

Minimum Standards: One agricultural education faculty member is responsible for coordinating activities for placing agricultural education teachers into jobs; these activities include maintaining an up-to-date list of agricultural education teacher positions in Illinois in cooperation with other teacher preparation institutions offering agricultural education.

g) Goal 7: Professional development activities are available for all agricultural education students and faculty as an integral part of their academic program.

Minimum Standards:

1) An agricultural education student organization is integrated into the instructional program and is available to all students majoring in agricultural education.

2) Faculty are involved in scholarly and professional activities and/or participate in organizations related to teacher training leadership, technical training and/or dissemination of research results.

h) Goal 8: Agricultural education students understand the importance of and are able to assist high school students in developing and carrying out supervised agricultural experience programs (including maintaining records).

Minimum Standards:

1) All student teachers receive instruction about the requirements for obtaining the certification that a student may need to perform specific workplace learning activities.

2) All agricultural education students receive instruction in planning, developing, implementing and evaluating supervised agricultural experiences, which include record-keeping methods, in a required agricultural education course.

i) Goal 9: Agricultural education students are knowledgeable about the National FFA Organization and its use as an integral part of a complete agricultural education program, as well as the role of the FFA advisor.

Minimum Standards:

1) Agricultural education students participate in at least two FFA events prior to the completion of their student teaching.

2) All students develop a program of activities for an FFA chapter prior to the completion of their student teaching.

3) All students assist in completing FFA degree and award applications prior to the completion of student teaching.

4) Agricultural education faculty attend the State and national FFA conventions.

j) Goal 10: Students in agricultural education programs understand the role of and gain experience in leading an agricultural advisory committee.

Minimum Standards:

1) Methods and strategies for organizing and using advisory committees is part of the instruction offered in a course required for agricultural education.

2) All student teachers observe and participate in at least one agricultural advisory committee during their student teaching.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.320 Quality Indicators

Each quality indicator is intended to measure an applicant's achievement of the goal to which it applies. (See Section 75.310 of this Part.) The application for funding required under Section 75.340 of this Part shall list the specific quality indicators to be considered in a given funding cycle and their values, which shall range from 0 to 10. The total value of an individual application shall be considered on a 100 percent basis. That is, the percentage of the total represented by any quality indicator will be such that the total percentages of all quality indicators equal 100 percent.

a) Goal 1: Not to exceed 15 percent of the total value available. Include, at a minimum, provision of scholarships for agricultural teacher preparation programs; communication with teachers in high schools and community colleges (e.g., newsletters, website, brochures); speaking engagements involving representatives of the agricultural teacher preparation program and high school students; on-campus recruitment activities for high school students; and receipt of a grant under Subpart A of this Part.

b) Goal 2: Not to exceed 10 percent of the total value available. Include, at a minimum, graduate assistantships for students specializing in teacher preparation; enrollment of students in the graduate agricultural education program; graduate courses (other than online courses) that complement schedules of secondary teachers of agriculture; master's of education program and additional coursework leading to an endorsement in agricultural education; and online coursework in agricultural education that is available to graduate students.

c) Goal 3: Not to exceed 10 percent of the total value available. Include, at a minimum, assignment to each agricultural education faculty of no more than 25 undergraduates; interview conducted by a panel prior to each student beginning his or her student teaching; and qualification of graduates being eligible for dual endorsements (i.e., in agriculture and another subject area) due to the faculty

providing candidates with information about endorsement options and requirements.

d) Goal 4: Not to exceed 25 percent of the total value available. Include, at a minimum, requiring student teachers to develop a minimum of one lesson plan a week, provide instruction to at least one adult education class, and participate in at least three cooperative learning experiences during their student teaching component; faculty observation and evaluation of student's teaching, with results shared with the student teacher (three half-day visits to the site required); developing teaching skills related to online and other electronic learning; information about the structure of Illinois' agricultural education system integrated into a required agricultural education course; and activities available to all students related to assessing community needs, developing lesson plans for cooperative teaching with nonagricultural education staff, and designing a sequential course of study in an agricultural field.

e) Goal 5: Not to exceed 10 percent of the total value available. Include, at a minimum, completion of at least one course in each technical agricultural education field (i.e., agronomy, animal science, horticulture, agricultural business and agricultural mechanics technology); credit provided for technical internships in agriculture; and completion by graduates of requirements necessary to obtain an endorsement on a teaching certificate for agricultural education and for a related science or mathematics field of study, as identified in the application for funding.

f) Goal 6: Not to exceed 10 percent of the total value available. Include, at a minimum, conferences at least annually for supervisors of student teachers focused on their roles and responsibilities; requiring students to develop professional portfolios; maintaining placement records of graduates in the agricultural education files; and placement of at least 40 percent of graduates in teaching positions at secondary or postsecondary institutions.

g) Goal 7: Not to exceed 25 percent of the total value available. Include, at a minimum, ensuring agricultural education students are members of the Illinois Association of Vocational Agriculture Teachers (IAVAT) Student Branch, and that they demonstrate commitment to professionalism, as evidenced by their participation in various professional activities (e.g., IAVAT Student Branch conference, Central States Research Conference, Alpha Tau Alpha Student Teacher Conference, Intra-University Student Teacher Exchange); faculty members also attend and participate in professional conferences and meetings

(i.e., IAVAT annual conference, Central States Research Conference and Illinois Team Ag Ed meetings) and connect to instruction at the secondary level.

h) Goal 8: Not to exceed 15 percent of the total value available. Include, at a minimum, that student teachers, during their student teaching, conduct supervised agricultural experience visits (e.g., outside of the school), provide instruction relative to supervised agricultural experience record-keeping, plan and develop a school-based supervised agricultural experience for their students, and participate in National FFA Organization proficiency award judging beyond the local chapter level; instruction about agricultural-based supervised agricultural experiences is integrated into a required agricultural education course at the postsecondary level.

i) Goal 9: Not to exceed 15 percent of the total value available. Include, at a minimum, student teachers' attendance at State and national FFA conventions and at least three leadership and/or career development events; agricultural education students' completion of award applications specified in the application for funding; students' membership in Collegiate FFA and/or National Postsecondary Agricultural Student Organization.

j) Goal 10: Not to exceed 10 percent of the total value available. Include, at a minimum, an advisory committee of the agricultural teacher preparation program that meets at least two times a year and has representation of agricultural organizations, agricultural business and industry, teachers and a student teacher, and produces an annual report that includes recommendations to be given to the teacher preparation program and presented at the annual IAVAT conference.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.330 Determination of Individual Grant Allocations

Individual grant allocations shall be determined as set forth in Section 75.240(a) of this Part.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.340 Application Procedure

Applications shall be submitted in accordance with the procedures set forth in Section 75.250 of this Part, except that the applicant shall submit a budget summary and payment schedule and a budget description that includes a detailed explanation of each expenditure.

a) Allowable expenditures must relate directly to the agricultural education program and that includes, but is not limited to, activities that support the improvement of instruction or program improvements (e.g., purchased professional services, registration and travel for professional events, temporary or overtime salaries, instructional materials, and equipment and software).

b) Indirect costs are not allowed.

c) No more than 50 percent of the applicant's allocation shall be expended for extended contracts (i.e., those that exceed nine months) or stipends, and no more than 30 percent of the allocation shall be expended for travel expenses (e.g., mileage, lodging) other than for student visits.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.350 Terms of the Grant

a) The grantee shall maintain on file documentation specific to its achievement of each quality indicator set forth on the application for funding. The documentation shall be made available for programmatic review and auditing purposes. Up to 25 percent of grantees receiving funding under this Subpart C in each fiscal year may be selected for an on-site review and/or audit.

b) In the event that the grantee discontinues its agricultural teacher preparation program, all instructional materials, tools and equipment purchased with funds provided under this Subpart C shall be relocated by the State Board of Education to other agricultural teacher preparation programs in the State.

c) No subcontracting will be allowed without the prior written approval of the State Superintendent of Education.

d) Activities shall be supported by funding under this Subpart C only to the extent that they do not duplicate or supplant efforts already conducted by or under the auspices of the grantee. The use of grant funds for administrative expenditures shall be limited to amounts demonstrably necessary for the implementation or coordination of additional activities under this Subpart C.

e) No later than 20 days after the end of the grant period, each grantee shall submit a final narrative report, in a format specified by the State Superintendent of

Education, regarding the services and activities provided and their impact on the agricultural teacher preparation program.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

SUBPART D: FACILITATING THE COORDINATION OF AGRICULTURAL EDUCATION

Section 75.400 Purpose and Objectives

a) This Subpart D establishes the application procedure and criteria for award of one or more grants to eligible applicants for the following purposes, set forth in Section 2-3.80(d) of the School Code:

1) *development of a curriculum and strategy for the purpose of establishing a source of trained and qualified individuals in agriculture*;

2) *a strategy for articulating the State program in agricultural education throughout the public school system; and*

3) *a consumer education outreach strategy regarding the importance of agricultural education in Illinois.*

b) In order to facilitate and coordinate agricultural education programs offered in public elementary and secondary schools in Illinois, projects funded under this Subpart D shall meet at least the following objectives:

1) implementation of agricultural education initiatives as part of career and technical education through the use of a sufficient number of qualified professional and support staff, including designation of a director, who are located in identified regions of the State that at least include representation in each of the five districts established by the Illinois Association of Vocational Agriculture Teachers (see http://isbe.net/career/pdf/iavat_dist_map.pdf);

2) review of existing or development of new curriculum and assessments, ensuring alignment to the Illinois State Goals for Learning.

A) Agricultural education curriculum and assessments will be evaluated, revised, as needed, and disseminated to programs and teachers in prekindergarten through grade 12, as applicable; and

B) Inservice training will be provided to assist teachers with planning, developing and implementing the materials using currently available technology;

3) coordination of statewide consumer education outreach initiatives with a focus on agriculture and designed to increase literacy in and awareness of agriculture at all grade levels;

4) coordination of a statewide system of professional development and provision of on-site technical assistance for agricultural education teachers at all grade levels;

5) coordination of the identification, compilation and dissemination of information and resources that include data collection from agricultural education programs and maintenance of the agriculture website found at www.ilaged.org; and

6) coordination of efforts between the business community and educators to improve agricultural education.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.410 Eligible Applicants

Eligible applicants under this Subpart D are public community colleges and universities that offer an agricultural program of study. For purposes of this Subpart D, an "agricultural program of study" is one that offers a series of courses in agriculture, foods or natural resources that may be transferred to other universities or enables a student to pursue either a minor or major concentration in one of those areas of study.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.420 Application Procedure for Initial Proposals

Programs established under this Subpart D shall be funded for a five-year period. Funding in each year subsequent to the initial grant year is subject to a sufficient appropriation for the program and satisfactory progress of the grantee in the previous grant year. (See Section 75.435 of this Part.)

a) When State funding is expected to be available under this Subpart D for a given fiscal year, the State Superintendent of Education shall issue a request for proposals to eligible entities. This request shall:

1) indicate the amount or expected amount of the appropriation for the program and the expected range for grant awards;

2) describe the required content and format of proposals and identify the services and activities that will receive priority consideration for funding, if applicable;

3) identify the data that recipients will be required to collect and report regarding the services and activities conducted with the funds provided and the results of those services and activities, as well as the timelines for reporting;

4) identify the categories of allowable expenditures and require the submission of a budget summary and payment schedule, completed on the forms provided, as well as a narrative budget description that provides a detailed explanation of each line item of expenditure;

5) include the information to be provided regarding any subcontractors proposed to provide services or conduct activities;

6) include certifications, assurances, and program-specific terms of the grant that the State Superintendent may require (also see Section 75.440 of this Part); and

7) indicate the deadline for submission of proposals, which shall provide applicants with at least 30 days in which to respond.

b) Each proposal shall be signed by an authorized representative of the applicant entity.

c) Applicants may be requested to clarify various aspects of their proposals. The content of the approved proposal shall be incorporated into a grant agreement to be signed by the applicant's authorized representative and the State Superintendent of Education or designee.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.430 Criteria for the Review of Initial Proposals; Allocation of Funds

Proposals submitted for funding under this Subpart D shall be evaluated in accordance with the following criteria.

a) Quality of the Plan (80 points)

1) The proposed professional development and technical assistance activities appear likely to accomplish the purposes and objectives set forth in Section 75.400 of this Part. The approaches selected are comprehensive in scope and will provide effective and relevant professional development and technical assistance activities.

2) The proposal demonstrates an understanding of the agriculture, food and natural resource industry, generally, and of agricultural education in prekindergarten through adult, specifically. The services and activities that are proposed will be accessible to teachers and others throughout the State.

3) Sufficient evidence is presented of the applicant's capabilities to review, modify, and develop, as needed, agricultural education curriculum and other instructional resources designed to improve and enhance the quality of agricultural education programs. Understanding of the relationship of agricultural education to the Illinois State Goals for Learning is evident.

4) Skills related to website management are clearly articulated and adequate for maintaining and updating, as needed, the State Board of Education's agricultural education website.

5) The qualifications of staff and any proposed subcontractors demonstrate extensive experience in delivering the services and activities proposed. The applicant has presented convincing evidence of its ability to manage large-scale programs on a statewide or comparable basis.

6) The evaluation strategies are likely to gauge the effectiveness of the services provided and measure the impact that the activities will have on agricultural education statewide, while yielding sufficient data that can be used to improve agricultural education through the project.

7) The applicant proposes innovative use of existing resources, leveraging a variety of State and local resources in delivering and coordinating its activities and work.

b) Cost-Effectiveness (20 points)
The proposal represents a cost-effective use of State resources, as evidenced by the amounts requested for the proposed activities in relation to the numbers to be served and the services to be provided, and sufficient evidence is presented of the applicant's financial stability.

c) Priority consideration may be given to proposals with specific areas of emphasis, as identified by the State Superintendent of Education in a particular RFP.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.435 Application Content and Approval for Continuation Programs

a) Each grantee's eligibility to receive funding during the grant period in each year following the grantee's initial receipt of funding shall be contingent upon the submission of:

1) a description of activities undertaken to date and any other information required to be reported, demonstrating that the project has been implemented in conformance with the grant agreement;

2) an updated project narrative that discusses the services and activities for which the funding will be used and a rationale for the activities to be undertaken;

3) an updated budget summary and payment schedule for the coming fiscal year, including a narrative budget description;

4) information about any subcontractors proposed to provide services or conduct activities; and

5) signed certifications, assurances, and program-specific terms of the grant, as applicable to the renewal period.

b) A program established under this Subpart D shall be approved for continuation, provided that:

1) a need continues to exist for the program, as evidenced by the proposed number of secondary agricultural education programs whose needs are not currently being met;

2) the activities and services proposed will be effective in facilitating curriculum development, ensuring the availability of trained and qualified individuals in agriculture, articulating the State program in agricultural education throughout the public school system and raising awareness about the importance of agricultural education in Illinois;

3) the proposed budget is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided; and

4) in the year previous to the continuation application, the applicant complied with the terms and conditions of any grant it received pursuant to this Subpart D.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

Section 75.440 Terms of the Grant

a) Subcontracting is allowed with prior written approval of the State Superintendent of Education.

b) Activities shall be supported by funding under this Subpart D only to the extent that they do not duplicate or supplant efforts already conducted by or under the auspices of the grantee. The use of grant funds for administrative expenditures shall be limited to amounts demonstrably necessary for the implementation or coordination of additional activities under this Subpart D.

c) The grantee shall submit a mid-term report and final narrative report regarding the services and activities provided and their impact on agricultural education in a format and according to timelines specified by the State Superintendent of Education or designee. The final report shall include either one copy of printed materials developed through the project or electronic access to those materials.

d) The grantee shall designate a project director, who will have responsibility for:

1) coordinating all grant activities with staff in the State Board of Education's Division of Career and Technical Education, which shall include attendance at monthly project meetings with the agency's head agriculture consultant; and

2) the preparation, submission and maintenance of all written project documentation, including, but not limited to, budget amendments, mid-year and final reports, expenditure reports and other information related to personnel.

e) The grantee shall be required to attend the meetings of the Illinois Leadership Council for Agricultural Education and the Illinois Committee for Agricultural Education established pursuant to Section 2-3.80 of the School Code.

f) Funds may not be used for out-of-state travel unless first approved by the State Board of Education at least 30 days in advance of the first day of travel. Requests for approval shall contain the name or description of the function that personnel will be attending, number of travelers, projected cost, dates of travel and benefit to the project. Out-of-state travel will be approved only if it is related to or benefits the project.

g) The initial RFP and each continuation application shall specify the specific indirect cost rate to be used for the grant period, provided that in no case shall the indirect cost rate exceed 8 percent.

(Source: Added at 35 Ill. Reg. 16839, effective September 29, 2011)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Transitional Bilingual Education

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

3) Section Number: 228.35 Adopted Action: Amendment

4) Statutory Authority: 105 ILCS 5/14C-8

5) Effective Date of Amendment: September 29, 2011

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: June 10, 2011; 35 Ill. Reg. 8746

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

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.

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

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

15) Summary and Purpose of Amendment: In 2006, the State Board amended Part 228 to establish for the first time requirements for administrators of bilingual education programs that were in addition to holding an administrative certificate or supervisory approval. The rules provided that administrators also hold one of several endorsements or approvals required of bilingual education teachers, with the specific endorsement or approval dependent on whether the program offered was a transitional bilingual education program (TBE) or a transitional program of instruction (TPI). The timelines

for compliance (2008 or 2010) were dependent upon when the individual was first assigned to serve as the administrator for these programs.

Despite the requirements being in place since 2006, the agency again heard complaints about the deadline for compliance when Part 228 was amended in 2010. Since that time, it has become clear that a significant number of school districts have been unable to find individuals to serve in administrative positions who have the proper certification. The changes in both Part 228 and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision) respond to these ongoing concerns that the current standards are both burdensome and costly.

Section 228.35 will include a cross-reference to Part 1, which will list among the alternatives for bilingual education administrators, the completion of specific coursework. Completion of only the coursework relieves individuals choosing this alternative from having to pass the language examination to demonstrate proficiency in a second language. A language exam is a requirement to receive a bilingual education endorsement or approval. The requirement of the language exam, in particular, has been criticized by many in bilingual programs who say that otherwise qualified administrators often do not have the skills in a second language necessary to pass the exam. Retaining coursework requirements, however, will enable administrators to gain competencies necessary to adequately guide programs that help children build academic skills and knowledge with native language support while they acquire the English language skills necessary to succeed in the general education program.

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

Robin Lisboa, Division Administrator
Division of English Language Learning
Illinois State Board of Education
100 W. Randolph Street, CH14-300
Chicago, Illinois 60601

314/814-3850

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

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

PART 228
TRANSITIONAL BILINGUAL EDUCATION

Section

228.5 Purpose and Applicability
228.10 Definitions
228.15 Identification of Eligible Students
228.20 Student Language Classification Data
228.25 Program Options, Placement, and Assessment
228.27 Language Acquisition Services for Certain Students Exiting the Program
228.30 Establishment of Programs
228.35 Personnel Qualifications; Professional Development
228.40 Students' Participation; Records
228.50 Program Plan Approval and Reimbursement Procedures
228.60 Evaluation

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

SOURCE: Adopted May 28, 1976; codified at 8 Ill. Reg. 5176; Part repealed, new Part adopted at 11 Ill. Reg. 5969, effective March 23, 1987; amended at 17 Ill. Reg. 104, effective December 18, 1992; amended at 26 Ill. Reg. 898, effective January 15, 2002; amended at 27 Ill. Reg. 9996, effective June 20, 2003; amended at 30 Ill. Reg. 17434, effective October 23, 2006; amended at 34 Ill. Reg. 11581, effective July 26, 2010; amended at 35 Ill. Reg. 3735, effective February 17, 2011; amended at 35 Ill. Reg. 16870, effective September 29, 2011.

Section 228.35 Personnel Qualifications; Professional Development

a) Each individual assigned to provide instruction in a student's home language shall meet the requirements for bilingual education teachers set forth in 23 Ill. Adm. Code 25 (Certification) and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision), as applicable.

b) Each individual assigned to provide instruction in ESL shall meet the requirements for ESL or English as a New Language teachers set forth in 23 Ill. Adm. Code 25 and 23 Ill. Adm. Code 1, as applicable.

c) Preschool Programs

1) Each individual assigned to provide instruction to students in a preschool program shall meet the requirements of 23 Ill. Adm. 235.20(c)(8)(A) (Early Childhood Block Grant).

2) By July 1, 2014, each individual assigned to provide instruction to students in a preschool program also shall meet the applicable requirements of subsection (a) or (b) of this Section, depending on the assignment.

3) Noncertificated staff employed to assist in instruction in a preschool program shall meet the requirements of 23 Ill. Adm. 235.20(c)(8)(B).

d) Administrators

Beginning July 1, 2014~~2008~~, each individual ~~newly~~ assigned to administer a program under this Part shall meet the applicable requirements of this subsection (d). ~~Administrators first assigned on or before June 30, 2008 shall be subject to the applicable requirements of this subsection (d) as of July 1, 2010.~~

1) Except as provided in subsections (d)(2) and (3)~~(d)(3) and (4)~~ of this Section, any person designated to administer either a TBE or a TPI program must hold a valid administrative certificate or a supervisory endorsement issued on an initial or standard teaching certificate by the State Board of Education in accordance with applicable provisions of 23 Ill. Adm. Code 25 (Certification) and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision) and must meet the requirements of 23 Ill. Adm. Code 1.783 (Requirements for Administrators of Bilingual Education Programs), as applicable~~hold the bilingual approval or endorsement or the ENL endorsement with a language designation~~.

~~2) Except as provided in subsections (d)(3) and (4) of this Section, any person designated to administer a TPI program must hold a valid administrative certificate or a supervisory endorsement issued on an initial or standard teaching certificate by the State Board of Education in~~

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

2)~~3)~~ A person designated to administer a TBE or TPI program in a district with fewer than 200 TBE/TPI students shall be exempt from all but the requirement for an administrative certificate or a supervisory endorsement issued on an initial or standard teaching certificate, provided that he or she annually completes a minimum of two hours of professional development specifically designed to address the needs of students with limited English proficiency. Beginning in the 2012-13 school year, a minimum of eight hours of professional development shall be required. An assurance that this requirement has been met shall be provided annually in a school district's application submitted pursuant to Section 228.50 of this Part. Documentation for this professional development activity shall be made available to a representative of the State Board of Education upon request.

3)~~4)~~ A person who has been assigned to administer a TPI program in a district that experiences such growth in the number of students eligible for bilingual education that a TBE program is required shall become subject to the requirements of subsection (d)(1) of this Section at the beginning of the fourth school year of the TBE program's operation. A person who has been assigned to administer a program under subsection (d)(2)~~(d)(3)~~ of this Section in a district where the number of students eligible for bilingual education reaches 200 shall become subject to the requirements of subsection (d)(1)~~(d)(2)~~ of this Section at the beginning of the fourth school year in which the eligible population equals or exceeds 200 or more students. That is, each individual may continue to serve for the first three school years on the credentials that qualified him or her to administer the program previously operated.

e) Professional Development for Staff

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

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

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

A) current research in bilingual education;

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

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

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

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

4) In addition to any other training required under this subsection (e), each individual who is responsible for administering the prescribed screening instrument referred to in Section 228.15(e) of this Part or the annual English language proficiency assessment discussed in Section 228.25(b) of this Part shall be required to complete on-line training designated by the State Superintendent of Education and to pass the test embedded in that material.

5) Beginning in the 2012-13 school year, each district that operates either a TBE or a TPI program for students of Spanish language background in kindergarten and any of grades 1 through 12 shall provide annually at least one training session related to the implementation of the Spanish language arts standards required under Section 228.30(b)(4) of this Part for staff members of that program who are providing instruction in the Spanish language arts.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

(Source: Amended at 35 Ill. Reg. 16870, effective September 29, 2011)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Administration of Psychotropic Medications to Children for Whom the Department of Children and Family Services Is Legally Responsible

2) Code Citation: 89 Ill. Adm. Code 325

3)

Section Numbers:	Emergency Action:
325.10	Amended
325.20	Amended
325.30	Amended
325.40	Amended
325.50	Amended
325.60	Amended
325.70	Amended
325.80	New

4) Statutory Authority: Administration of Psychotropic Medications to Children Act [20 ILCS 535 (PA 97-245, effective August 4, 2011)]

5) Effective Date of Amendments: October 1, 2011

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: None

7) Date filed with the Index Department: September 29, 2011

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

9) Reason for Emergency: Section 5 of the Act requires the Department to promulgate final rules by October 1, 2011. The Department is using emergency rule to put standards in place to meet the statutory requirement. The effective date of the Act, August 4, 2011, did not leave enough time for the Department to utilize the regular rulemaking process to meet the statutorily set timeframe.

10) A Complete Description of the Subjects and Issues Involved: This Part contains standards and procedures governing the administration of psychotropic medications to children in DCFS custody or guardianship. The proposed amendments:

- Add and amend several definitions;

- Require DCFS and private agency investigators/caseworkers to identify potential medical and mental health issues when children enter the system. If the child is taking psychotropic medication, the investigator/caseworker shall ensure appropriate consent is provided to continue administration of that medication;
- Require DCFS to publish Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care and DCFS Psychotropic Medications List on its website and on the websites of DCFS psychiatric consultants. These publications shall be provided to all authorized agents and to substitute care agencies and hospitals that accept DCFS wards for placement or treatment;
- Require licensed prescribers to use a Psychotropic Medications Request Form provided by DCFS when requesting consent to prescribe psychotropic medications;
- Describe the use and approval process for one-time non-emergency medication; Require DCFS to designate an Oversight Treatment Team to conduct reviews of psychotropic medication use by DCFS wards in specified circumstances;
- Designate staff of the Centralized Consent Unit and Emergency Reception Center as the only DCFS staff that may consent to administration of psychotropic medications for DCFS wards, and require initial and periodic training for these staff;
- Require facilities and prescribers to monitor a child's response to medications;
- Require Administrative Case Reviewers, at 6 month case reviews, to ask whether a ward is taking psychotropic medication, ensure that appropriate consent for medication was obtained, and to report deviations in practice to the DCFS guardian and appropriate management staff;
- Require that residential facilities licensed by DCFS have a written policy for the safe and accurate administration of medication to all children in the facility;
- Require DCFS to offer training for residential facilities, hospitals, foster parents and relative caregivers concerning the requirements of this Part;
- Specify the steps to be taken by DCFS to enforce violations of this Part; and
- Require the DCFS Guardian to notify the guardian ad litem (GAL) of a ward who has been administered a psychotropic medication in violation of this Part where the GAL has requested notification and provides DCFS with an appropriate order from the court granting the GAL authority to receive and review this information.

11) Are there any other amendments pending to this Part? No

12) Statement of Statewide Policy Objectives: This amendment does not create or expand a State mandate.

13) Information and questions regarding this emergency amendment shall be directed to:

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

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

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

PART 325
ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS TO CHILDREN FOR WHOM THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES IS LEGALLY RESPONSIBLE

Section
325.10 Purpose
EMERGENCY
325.20 Definitions
EMERGENCY
325.30 General Provisions
EMERGENCY
325.40 Medication Approval Standards
EMERGENCY
325.50 Children in Residential Facilities and/or Psychiatric Hospital Settings
EMERGENCY
325.60 Children in Foster Care
EMERGENCY
325.70 Miscellaneous Provisions
EMERGENCY
325.80 Violations of this Part
EMERGENCY

AUTHORITY: Implementing Section 5 of the Children and Family Services Act [20 ILCS 505/5], the Juvenile Court Act of 1987 [705 ILCS 405], the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-100] and the Administration of Psychotropic Medications to Children Act [20 ILCS 535].

SOURCE: Adopted at 19 Ill. Reg. 8600, effective June 15, 1995; emergency amendment at 35 Ill. Reg. 16877, effective October 1, 2011, for a maximum of 150 days.

Section 325.10 Purpose
EMERGENCY

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

The following standards and procedures shall govern the administration of psychotropic medications to persons under the guardianship of the Department pursuant to court order or for whom the Department has custody and has, by court order or via an adoptive surrender, been authorized to consent to major medical procedures. It is the purpose of this rule to create a system which promptly identifies and evaluates the needs of children for psychotropic medication, provides timely access to such medication, and monitors children on such medication, while recognizing the risks that such medications pose, particularly if they are not prescribed and monitored with care. Psychotropic medication must not be used simply for the convenience of staff members or caregivers, to punish children, or as a substitute for adequate staffing and programming.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 16877, effective October 1, 2011, for a maximum of 150 days)

Section 325.20 Definitions
EMERGENCY

"Administrative Case Review" means a review of permanency planning, open to the participation of the parents of the child, conducted by a person who is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subjects of the review. (42 USCA 675) The administrative case review is also open to the participation of other professionals involved in assessing or treating the child, any legal representative of the parent or child, and the foster parents or relative caregivers as specified in 89 Ill. Adm. Code 316.50 (Conduct and Participation at Administrative Case Reviews).

"Administrative Case Review Chronic Report" means a report generated as a result of an administrative case review that identifies unmet services or casework needs identified in previous reviews. Categories of service or casework needs include counseling, medical, dental, school reports, visitation, assessments, and worker contacts.

"Administrative Case Review Critical Alert Report" means a report generated as a result of an administrative case review that identifies actions or inactions in violations of rule, procedure or law, or acts of gross impropriety that endanger the safety, well being and permanency of children. Examples of critical issues include caregiver violation of licensing standards or law; worker violation of law; court ordered visitation changed without notification; neglect of a child's critical medical needs.

"Administrative Case Reviewer" means a trained professional who is not responsible for the case management of, or delivery of services to, either the child or the parents who are the subjects of the review.

"Authorized Agent~~agent~~" means Department staff who have been appointed and authorized by the ~~Director to officially act in the place of the~~ Guardianship Administrator to officially act in the place of the Guardianship Administrator to authorize and consent to matters concerning children for whom the Department has legal responsibility.

"Centralized Consent Unit" means the staff of authorized agents under the Department's Division of Guardian and Advocacy responsible for processing all psychotropic medication consents on a statewide basis during working hours.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody as authorized by the Abused and Neglected Child Reporting Act, children for whom the Department has been appointed legal custodian or guardian by order of a Juvenile Court, children whose parent(s) have signed an adoptive surrender, or children for whom the Department has temporary custody via a voluntary placement agreement. For purposes of consenting to the administration of psychotropic medications the Department must be the legal guardian or custodian with~~which has been granted~~ the authority to consent to major medical care.

"Department" means the Illinois Department of Children and Family Services.

"Emergency Medication" means psychotropic medication given to a child when circumstances exist in which a child for whom the Department is legally responsible poses a threat of imminent serious harm to self or others.

"Emergency Reception Center (ERC)" means the staff of authorized agents under the Department's Division of Child Protection responsible for processing all psychotropic medication consents on a statewide basis after working hours and on holidays and weekends.

"Licensed Prescriber" for purposes of this Part, means a physician, a physician assistant licensed in accordance with the Physician Assistant Practice Act of 1997,

or an advanced practice nurse in accordance with a written collaborative agreement required under the Nurse Practice Act.

"Medication Monitoring" means the use of clinical observation, physical examination, and laboratory testing to monitor a youth's response to one or more prescribed psychotropic medications to determine if a psychotropic medication is safe, effective and being prescribed at the optimal dose using approved best practice monitoring methods.

"One-time, Non-emergency Medication" means the one-time administration of a psychotropic medication prescribed by a licensed prescriber to a child for whom the Department is legally responsible for the acute management of symptoms of insomnia or other troublesome symptoms that may adversely affect a child or adolescent's sense of well being following an evaluation conducted by a qualified health professional.

"Oversight Treatment Team"~~Pharmacological Review Committee~~" means a committee appointed by the Department that~~which~~ is comprised of the Department's Chief Psychiatric Consultant, Medical Director and Chief Nurse and representatives from the Division of Guardian and Advocacy and the Division of Clinical Services. At~~at least three representatives, at~~ least one representative must be~~of whom is~~ a Board certified Child and Adolescent Psychiatrist~~psychiatrist who specializes in the treatment of children and adolescents~~. This Committee shall have the~~certain~~ powers and duties ~~as~~ prescribed in this Part.

"PRN *(Pro re nata)* Medication" means standing medication orders that allow caregivers in group home, residential or hospital settings to administer a psychotropic medication for the emergency management of aggression, psychotic agitation, insomnia, and other troublesome symptoms without a physician assessment or specific approval according to parameters set by the licensed prescriber.

"Psychiatric Consultant~~consultant~~" means a Board-certified Child and Adolescent Psychiatrist~~psychiatrist~~ as defined in 405 ILCS 5/1-121 who has specialized in child and adolescent psychiatry, and who provides consultation to the Department's Guardian and Advocacy Division and authorized agents.

"Psychiatric Hospital" means a mental health facility that can provide 24-hour psychiatric services. This includes:

psychiatric facilities operated by the Illinois Department of Human Services - Division of Mental Health;

private psychiatric hospitals licensed by the Illinois Department of Public Health; or

a specific unit in a general hospital in which diagnosis, treatment, and care for persons with mental illness is provided and that is licensed by the Illinois Department of Public Health.

"Psychotropic Medication" means any medication capable of affecting the mind, emotions, and behavior. This includes medications whose *use for antipsychotic, antidepressant, antimanic, antianxiety, behavioral modification or behavioral management purposes is listed in AMA Drug Evaluations, latest edition, or Physician's Desk Reference, latest edition or which are administered for any of these purposes*. [405 ILCS 5/1-121.1] For the purpose of this definition, medications used to induce or sustain sleep, to treat symptoms of aggression, enuresis and psychotropic medication-induced adverse effects are also included.

~~*"Psychotropic medication" means medication whose use for antipsychotic, antidepressant, antimanic, antianxiety, behavioral modification or behavioral management purposes is listed in AMA Drug Evaluations, latest edition, or Physician's Desk Reference, latest edition, or which are administered for any of these purposes.* [405 ILCS 5/1-121.1]~~

"Residential Facility~~facility~~" means a group home, child care institution, maternity center, youth transitional living program, or secure child care facility licensed by the Department or an institution or group home licensed by the Illinois Department of Public Health that provides full time treatment and/or care for children.~~any facility in which one or more children for whom the Department of Children and Family Services is legally responsible are housed, whether or not that facility is located within the State of Illinois, including but not limited to group homes, child care institutions, inpatient mental health facilities, including those operated by the Illinois Department of Mental Health and Developmental Disabilities.~~ Facilities operated by the Illinois Department of Corrections and the Illinois Department of Juvenile Justice are not residential facilities, as defined in this Part.

"Substitute Care" means the care of children who require placement away from their families. Substitute care includes foster family care, care of a child for whom the Department is legally responsible provided in a relative family home, and care provided in a residential facility as defined in this Part.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 16877, effective October 1, 2011, for a maximum of 150 days)

Section 325.30 General Provisions
EMERGENCY

a) The administration of psychotropic medication is prohibited to children for whom the Department is legally responsible as punishment for disruptive or inappropriate~~bad~~ behavior, for the convenience of staff members or caregivers or as a substitute for adequate ongoing programming for the children's needs ~~is prohibited~~.

b) Except in an emergency, and subject to subsections~~subsection~~ (a), (c), (d) and (g) of this Section ~~above~~, psychotropic medication shall never be administered to children for whom the Department is legally responsible without the prior approval of an authorized agent as set forth in this Part.

c) PRN medications for the purpose of behavioral management, inducing sleep, or treating other emotional, behavioral, or psychiatric illnesses are prohibited.

d) One-time, non-emergency medications may be used for the acute management of sleep disturbances or to treat other non-emergent emotional, behavioral, or psychiatric symptoms that adversely affect a patient's well being. Licensed prescribers are required to notify the Department's Division of Guardian and Advocacy, in writing, of the administration of an emergency psychotropic medication or a one-time, non-emergency medication.

e) Upon taking protective custody, the Department's investigation specialists shall identify potential medical and mental health issues through contact with the child's parents, relatives, schools, current and/or previous physicians, and observation of the child's behaviors. The investigation specialist shall attempt to obtain information on all medications and/or medical equipment needed by the child. If the child is on psychotropic medication, when possible, the investigation

specialist shall ensure appropriate consent is provided from the parent or legal guardian.

f) The child's caseworker shall ask parents, relatives and foster parents if the child is on any medications, and whether the child has any known or suspected medical or mental health issues. The caseworker shall obtain identified mental health documents and all medications and/or medical equipment needed by the child. If the child is on psychotropic medication the caseworker shall ensure appropriate consent is provided from the parent or legal guardian to continue administration of that medication.

g)~~e)~~ Children for whom the Department ~~of Children and Family Services~~ is legally responsible who have been committed to facilities operated by the Illinois Department of Corrections or the Illinois Department of Juvenile Justice are governed solely by the rules of the Illinois Department of Corrections (20 Ill. Adm. Code 415, Health Care) which also pertains to committed adults and emancipated minors, the Unified Code of Corrections [730 ILCS 5], and corrections case law for purposes of the administration of psychotropic medications. In its role as guardian, the Department of Children and Family Services may contest decisions made by the Illinois Department of Corrections or Department of Juvenile Justice in accordance with 20 Ill. Adm. Code 415 regarding the involuntary administration of psychotropic medications to Department wards placed in those facilities ~~operated by the Illinois Department of Corrections~~.

h) A Psychotropic Medication Consent Form shall be attached as an exhibit to each child's Client Service Plan for each psychotropic medication being administered to the child.

i) The Department shall provide a Psychotropic Medications Request Form. Copies of the Request Form shall be completed by licensed prescribers prescribing psychotropic medications for wards of the Department. Additionally, the Department shall distribute the Request Form to all substitute care agencies and hospitals in which wards of the Department reside, and to all authorized agents. At a minimum, the Request Form shall request the following information:

1) The child's name, date of birth and weight;

2) The medication to be administered;

3) The dosage and frequency of administration;

4) The duration, which in no event shall exceed 180 days;

5) Diagnosis, target symptoms and behavior;

6) Other medications the child is taking;

7) The name and specialty of the licensed prescriber;

8) In the case of children who are 12 years of age or older, whether the child objects to the administration of the medication;

9) Cultural/ethnic information about the child;

10) Tests/procedures that monitor potential side effects that are of greatest concern;

11) Over the counter or herbal supplements the child is taking;

12) Medications that were discontinued and the reason for the discontinuation; and

13) Whether completion of the form is notification of emergency administration of a psychotropic medication and, if so, a brief explanation of the nature and circumstances for administering that medication.

j) The Department shall employ or contract with one or more psychiatric consultants. The psychiatric consultants shall provide clinical consultation for all requests to administer psychotropic medication to a Department ward as provided in Section 325.40, Medication Approval Standards.

k) The Department shall publish the Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care on its website and the websites of the Department's psychiatric consultants. The Guidelines shall include basic guidelines for licensed prescribers regarding the administration of psychotropic medications to foster children. In addition, the Department shall publish the DCFS Psychotropic Medications List on its website and the website of the

Department's psychiatric consultants. The Medications List shall list all psychotropic medications, including medications used to treat sleep problems, bedwetting and medication-induced adverse effects, that may be prescribed for children in the custody or guardianship of the Department; their FDA indications; contraindications; the acceptable range of dosages; and monitoring requirements, if any. The Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care and the DCFS Psychotropic Medications List shall be approved, reviewed at least annually, and updated as necessary by the Oversight Treatment Team. The names, qualifications and professional positions of the members of the Oversight Treatment Team shall be listed in the Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care and the DCFS Psychotropic Medications List.

l) The Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care and the DCFS Psychotropic Medications List (and any revisions) shall be provided to all authorized agents, and to substitute care agencies and hospitals that accept children in the custody or guardianship of the Department for placement or treatment.

~~d) The Department shall establish a Pharmacological Review Committee which shall develop and publish a Pharmacy and Therapeutic Manual. The manual shall list all acceptable psychotropic medications which are approved by the Committee for use with children for whom the Department is legally responsible and shall list their purposes, the acceptable range of dosages, contraindications and time limits, if any. The names, qualifications, and professional positions of the members of the Pharmacological Review Committee shall be listed in the front of the manual. The Committee shall also review the Pharmacy and Therapeutic Manual on at least an annual basis and make recommendations for change, as necessary.~~

~~e) The Pharmacy and Therapeutic Manual and any revisions to it shall be provided to all authorized agents and to all residential facilities in which children for whom the Department is legally responsible reside.~~

m)~~f)~~ The Centralized Consent Unit and Emergency Reception Center (ERC) staff~~Authorized agents~~ shall be provided with regular periodic training in the use and contents of the Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care and the DCFS Psychotropic Medications List~~manual~~. The Guardianship Administrator~~Department~~ shall appoint, subject to the review of the Oversight Treatment Team~~Pharmacological Review Committee~~, an

individual~~a professional who specializes in treating children and adolescents~~ to provide training to the Centralized Consent Unit and ERC Staff~~authorized agents~~ on the use of the Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care and the DCFS Psychotropic Medications List~~manual and its contents~~. The training shall include:

1) initial training before the authorized agent assumes the responsibilities of the Centralized Consent Unit or ERC position. This training shall include an explanation of the purpose of the Guidelines~~manual~~, how to use the manual, the contents of the Guidelines~~manual~~ including an explanation of commonly prescribed psychotropic medications, the appropriate dosages for children and adolescents, ~~common~~ side effects, conditions~~danger signs, illnesses~~ for which medications are~~medication is~~ commonly prescribed, ~~the discretion left to the authorized agent~~, and the procedure for approval or denial of the psychotropic medications~~medication~~;

2) annual training; and

3) training before any revisions to the Guidelines~~manual~~ take effect.

n) During the Administrative Case Review process the reviewer shall inquire into the following:

1) Whether the child has any mental health issues and, if so, whether those issues are being addressed;

2) Whether the child is on psychotropic medications;

3) Verification that appropriate consents and other documentation are present in the child's case record;

4) Verification that psychotropic medications are being monitored according to accepted standards of care;

5) Identification of the licensed prescriber; and

6) Whether a referral has been or should be made to a DCFS Regional Nurse.

If the reviewer finds any deviation from the requirements of the six areas listed above, the reviewer shall issue an ACR Critical or Chronic Alert Report to the Guardianship Administrator and other appropriate Department management staff.

o) The Oversight Treatment Team shall conduct reviews of a child's psychotropic medications when:

1) A child has been prescribed more than four psychotropic medications at one time;

2) Psychotropic medications are prescribed for child under four years of age (excluding stimulants);

3) A child has been taking the same psychotropic medication for more than two years with no changes in dosage;

4) A child has been prescribed more that one psychotropic medication from the same class;

5) The child is prescribed frequent changes of psychotropic medications for the same condition or illness (occurring more frequently than every four weeks) without a clear rationale (e.g., side effects);

6) Dosages prescribed for the child exceed standard weight and age protocols;

7) Notices for emergency medications administered to a child exceed more than two a day for three consecutive days; and

8) A worker's observations of the child or the child's behavior raise concerns that have been referred to the DCFS Regional Nurse.

The Oversight Treatment Team may contact the licensed prescriber to discuss the rationale for the prescribed medications and will make decisions and give approval for actions needed regarding service delivery based on the outcome of the treatment team's review.

~~g) The Guardianship Administrator shall review the authorized agent's consents given pursuant to this Part within 30 days after the start of the authroized agent's~~

~~use of the manual and at least once every 90 days thereafter.~~

~~h)~~ ~~The Department shall employ or contract with one or more psychiatric consultants. Authorized agents shall consult with the psychiatric consultant employed or contracted by the Department as provided in Section 325.40, Medication Approval Standards.~~

~~i)~~ ~~The Department shall provide the Pharmacological Review Committee with statistical and non-identifying data regarding the administration of psychotropic medication to children governed by this Part including, where applicable, data from foster parent licensure reviews and administrative case reviews. The Committee shall review such data at least annually to determine whether psychotropic medication is being administered appropriately and in compliance with this Part. The Committee shall determine whether additional or different data shall be collected and whether this Part should be modified to achieve the goals set forth above.~~

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 16877, effective October 1, 2011, for a maximum of 150 days)

Section 325.40 Medication Approval Standards
EMERGENCY

a) Centralized Consent Unit and Emergency Reception Center staff may provide consent for~~Authorized agents may, at their discretion, approve~~ the administration of a~~any~~ psychotropic medication only after the Department's Psychiatric Consultant has provided clinical consultation and deemed the requested medication as appropriate. If a request for~~whose use and dosage is listed in the Pharmacy and Therapeutic Manual, provided that children for whom the Department is legally responsible are not taking any other psychotropic medications and subject to the provisions of Section 325.30(a). Authorized agents may approve the~~ administration of any psychotropic medication that~~which~~ does not meet the criteria listed in this subsection is deemed appropriate by the Department's Psychiatric Consultant and the Centralized Consent Unit or ERC staff consents, the staff shall note this fact on the consent form. If all requested information has been provided to the Centralized Consent Unit or ERC staff and consultation has occurred, the staff must provide consent or denial of psychotropic medication within 24 hours for inpatient requests and 48 hours for all other requests. If approval or denial of the request for medication is not

provided within specified time frames, the requesting party may contact the Office of the Guardianship Administrator or designee for assistance in obtaining a response. ~~only following consultation with the Department's psychiatric consultant. The authorized agent shall note on the consent form when consent has been given for the administration of a psychotropic medication which is not listed in the Pharmacy and Therapeutic Manual.~~

b) Additionally, whenever the Centralized Consent Unit or ERC staff~~authorized agent~~ is advised that a child for whom the Department is legally responsible objects to the administration of psychotropic medication, Centralized Consent Unit or ERC staff may~~the authorized agent must~~ consult with both the licensed prescriber~~physician~~ who is recommending the medication and the Department's psychiatric consultant employed or contracted by the Department prior to approving or denying the medication. Centralized Consent Unit or ERC staff~~Authorized agents~~ shall assess the basis for the child's objection to the psychotropic medication. This assessment may include asking the child's caseworker to interview the child to determine the basis for his/her objection. The reason for the child's objection must be fully documented on the Psychotropic Medication Request Form~~approval form provided for in Section 325.50(a) below~~. Although the Guardianship Administrator may give consent notwithstanding the child's objection, the licensed prescriber must follow all provisions of the Illinois Mental Health and Developmental Disabilities Code [405 ILCS 5].

c) Every consent~~authorization~~ for the administration of psychotropic medication shall be limited in time. Under no circumstance may psychotropic medication be authorized for a period exceeding 180 days. At the expiration of the period set forth in the authorization, psychotropic medication may be reauthorized pursuant to the standards and procedures contained in this Part. The duration of consent may be less than 180 days if deemed clinically appropriate by the Department's psychiatric consultant.

d) When the Department grants consent for the administration of a psychotropic medication to a foster child, it is granting consent to all prescribers who subsequently care for the child in other treatment settings until the consent expires.

e) Psychotropic Medication Monitoring. The licensed prescriber and facility shall monitor a child's response to medications according to the Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care and the

DCFS Psychotropic Medications List to determine if the psychotropic medications being administered are safe and effective based on criteria identified in the treatment plan and are being prescribed at the appropriate dosage. Means of monitoring safety, effectiveness and appropriateness of dosage include but are not limited to:

1) Clinical observations of symptoms and/or side effects documented in the patient's chart;

2) Vital signs (blood pressure, pulse and temperature);

3) Weight and height;

4) Symptom severity scales;

5) Adverse effects scales;

6) Blood tests to assess the medications' effects on the body, such as a complete blood count, metabolic panel, and thyroid function tests; and

7) Blood levels of specific medications such as lithium and various anticonvulsant mood stabilizers.

f) Continued use of medications that appear not to have the desired clinical effects or that are associated with problematic adverse effects must be re-evaluated by the licensed prescriber to determine the appropriateness of continuing the medication.

g) At least every 90 days, the licensed prescriber shall assess and document the status of the child/youth for any adverse reactions and document the presence or absence of tardive dyskinesia in a child/youth on antipsychotic medications. The licensed prescriber shall assess the continued need for the medication at least annually. The caseworker shall document this assessment in the child's case record.

h) Centralized Consent Unit and ERC staff may deny consent to the administration of psychotropic medications, whether the medications are among those listed in the Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care and the DCFS Psychotropic Medications List or have been approved by the psychiatric consultant. However, Centralized Consent Unit and ERC staff

may only deny consent after consulting both the licensed prescriber and the Department's psychiatric consultant. The Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care and the DCFS Psychotropic Medications List shall contain a statement setting forth this authority. In the event of a denial of a medication request, the specific reasons for the denial shall be set forth on the Psychotropic Medication Consent Form.

i)~~d)~~ Whenever a licensed prescriber~~physician~~ recommends the administration of one or more psychotropic medications~~medication~~ to a child for whom the Department is legally responsible, the child shall be advised of the purposes and effects of the medication and of the potential side effects of the medication to the extent that such advice is consistent with the nature and frequency of the side effects and the child's ability to understand the information communicated. The child shall also be provided written information concerning the medication and its side effects, unless it has been determined that such information could not be understood by the child. This written information shall be provided in the child's primary language. ~~Nothing in this Section shall be deemed to create any liability on the part of the physician or the residential facility based upon the failure to provide the child with complete and accurate information.~~

~~e)~~ ~~Authorized agents retain the authority to deny consent to the administration of psychotropic medications whether or not they are among those listed in the Pharmacy and Therapeutic Manual or whether they have been approved by the psychiatric consultant. Authorized agents may only deny consent to the administration of psychotropic medication after consulting both the prescribing physician and the psychiatric consultant. The Pharmacy and Therapeutic Manual shall contain a statement setting forth this authority. In the event of a denial of a medication request, the specific reasons for the denial shall be set forth on the Psychotropic Medication Approval form provided for in Section 325.50(a) below.~~

~~f)~~ ~~Authorized agents must render their oral approval or denial of psychotropic medication within 24 hours from the time they receive the request for approval, and shall confirm their approval in writing within two working days, unless the reason for the delay is the unavailability of the prescribing physician to consult with the authorized agent. If oral approval or denial of the request for medication is not rendered within 24 hours from the time the request was received, the requesting party shall contact the Office of the Guardianship Administrator or designee for assistance in obtaining a response.~~

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 16877, effective October 1, 2011, for a maximum of 150 days)

Section 325.50 Children in Residential Facilities and/or Psychiatric Hospital Settings EMERGENCY

Residential facilities licensed by the Department shall have a written policy, approved by each facility's on-call physician and governing body, for the safe and accurate administration of medications to all children and youth in the facility.

~~a) The Department shall create and distribute a Psychotropic Medication Approval form. Copies of the form shall be distributed to all residential facilities in which wards of the Department reside and to all authorized agents. That form shall include the following information:~~

~~1) the child's name, age, weight, and diagnosis;~~

~~2) the medication to be administered;~~

~~3) the dosage and frequency of the medication;~~

~~4) the duration, which in no event shall exceed 180 days;~~

~~5) target symptom(s) and behavior;~~

~~6) other medication the child is receiving;~~

~~7) the potential side effects of the medication which are of greatest concern;~~

~~8) the name of the prescribing physician;~~

~~9) in the case of children who are 14 years of age or older, whether the ward objects to the administration of the medication.~~

a)~~b)~~ Residential facilities and psychiatric hospitals that~~which~~ provide care to children for whom the Department is legally responsible shall submit a~~be advised by the Department that, whenever they seek approval of an authorized agent for the administration of a psychotropic medication, they will be asked the questions on the~~ Psychotropic Medication Request Form when requesting consent from

Centralized Consent Unit or Emergency Reception Center staff for the administration of psychotropic medications~~Approval form~~. When consent is granted, the authorized agent shall ensure that a copy of the Psychotropic Medication Consent Form is provided to the child welfare worker and the residential facility or hospital that submitted the request. The residential facility and/or hospital shall place~~complete~~ a copy of the Psychotropic Medication Consent Form~~approval form which is to be kept~~ in the child's case or medical record~~ at the facility~~. For after hours consent requests, authorized agents at the ERC shall fax a copy of the Psychotropic Medication Consent Form to the Department's psychiatric consultant. ~~Whenever approval is granted by an authorized agent, the agent shall complete and sign three copies of the form, retain one copy for the child's case record and forward a copy to the Guardianship Administrator and to the residential facility where the child resides.~~

b)~~c)~~ Prior consent from an authorized agent at the Centralized Consent Unit or ERC~~an authorized agent~~ is not required when an emergency exists as defined in this Part, or for the administration of a one-time non-emergency medication. However, the Centralized Consent Unit~~authorized agent~~ shall be notified in writing of the administration of medication within one week of its initial administration. The ~~Department shall provide each residential facility with Emergency~~ Psychotropic Medication Request Form shall~~forms to~~ be used by the residential facility or psychiatric hospital~~in reporting~~ to report~~the authorized agent~~ the administration of emergency medication or for the administration of one-time non-emergency medication. When used for notification of the use of a psychotropic medication due to an emergency or a one-time non-emergency situation, the Request Form~~This form~~ shall be completed by either a registered nurse or a physician who has examined the child and shall contain the information set forth in subsection 325.30(h)~~(a)~~ above. Additionally, the Request Form~~form~~ shall require a brief explanation of the nature and circumstances for the administration of the emergency medication or for the administration of a one-time non-emergency medication. A copy of the Request Form~~this form~~ shall be placed in the child's case record or medical file~~ at the residential facility and a copy shall be forwarded to the Guardianship Administrator and the authorized agent for the child~~. Emergency or one-time non-emergency medications~~medication~~ may only be administered on a one-time basis. Each administration of an emergency or one-time non-emergency medication requires submission of the Psychotropic Medication Request Form, notifying the Department of the use of the one-time emergency or non-emergency medication. ~~not continue for more than 48 hours, excluding Saturdays, Sundays and holidays. The administration of psychotropic~~

~~medication beyond this period may only occur if approved by an authorized agent as provided for in this Part.~~

c) PRN medications are prohibited under this Part.

d) The administration of psychotropic medication shall be monitored as follows:

1) The medical director of each residential facility or hospital, or designee who has been licensed in accordance with the provisions of the Nurse Practice~~Illinois Nursing~~ Act ~~of 1987~~ [225 ILCS 65], shall conduct a monthly review of all psychotropic medications and record that review in writing. This record shall be reviewed during the on-site inspections required by this Part. During this monthly review, the medical director or designee shall conduct an inventory of all psychotropic medications and shall verify that:

A) psychotropic medications are labeled~~labelled~~ with the child's name, directions for administering the medication, the date and licensed prescriber's~~prescribing physician's~~ name, prescription number, and drug store or pharmacy;

B) all medications are stored in a locked cabinet or within a locked refrigerator, if required for proper storage;

C) all controlled substances are accounted for or, if any amount of a controlled substance is missing, an incident report has been filed with the Director of the facility or hospital;

D) psychotropic medications are dispensed in accordance with the requirements of the prescription;

E) written consents for administration~~the provision~~ of psychotropic medications have been received from the parent or guardian, as appropriate;

F) any medications for children who have left the facility or hospital or who have been on runaway status 14 days or longer have been properly disposed.

~~2) The Guardianship Administrator's office shall collate all Emergency Psychotropic Medication forms and all Psychotropic Medication Approval forms in binders divided according to residential facility. The Guardianship Administrator's office shall review these binders monthly. The psychiatric consultant shall also review these binders every 90 days.~~

2)~~3)~~ The Department shall conduct unannounced on-site reviews at least annually to assure that the approval forms reflect the actual practice in the residential facility or hospital and that the ~~residential~~ facility/setting is in compliance with this Part. Such reviews shall include an investigation into whether the Psychotropic Medication Approval Forms, whether for notification of emergency administration, one-time non-emergency administration or for routine use,~~Emergency Psychotropic Medication Request forms and the Psychotropic Medication Request forms~~ accurately reflect those children/youth~~minors~~ who have objected to the administration of medication.

e) The Department shall offer training at least once a year~~every six months~~ for personnel employed by residential facilities and/or hospitals concerning the content of this Part and the procedures through which psychotropic medication may be authorized. This training shall also encompass medical consultation, consent, general psychiatric admission processes, and review of the Guidelines for the Utilization of Psychotropic Medications for Children in Foster Care and the DCFS Psychotropic Medications List as training resources and informational tools.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 16877, effective October 1, 2011, for a maximum of 150 days)

Section 325.60 Children in Foster Care
EMERGENCY

a) The Department shall offer~~provide~~ training for ~~all~~ foster parents and relative caregivers~~(including but not limited to relative family homes and foster homes supervised directly by the Department as well as homes supervised by private agencies)~~ concerning the procedures for approving psychotropic medication, ~~and~~ the need for and use of psychotropic medications and possible side effects. This training shall also address~~include training in the those~~ circumstances in which the child may self-medicate, where appropriate.

b) No~~Except in an emergency, no~~ psychotropic medication shall be administered to any child for whom the Department is legally responsible who resides in foster care unless the licensed prescriber~~physician who is prescribing the medication~~ has obtained prior consent~~approval~~ for such medication from the Centralized Consent Unit or Emergency Reception Center staff~~an authorized agent~~.

c) The Health Passport,~~ which is~~ issued by the Department to all children for whom it is legally responsible, shall contain the following~~a~~ statement: "Consent of the DCFS Guardian is required prior to the administration of any psychotropic medication. Consent must be obtained from the Centralized Consent Unit or Emergency Reception Center."~~ that, except in an emergency, no psychotropic medication may be administered to any such child without the approval of an authorized agent.~~

d) Centralized Consent Unit and ERC staff~~Authorized agents~~ shall use the same standards, forms and rules for approving psychotropic medication for children in foster care as are set forth above in Section 325.40~~325.50~~.

e) The foster parent shall inform the licensed prescriber~~prescribing physician~~ that:

1) the child is in foster care;

2) the consent of the Centralized Consent Unit or ERC staff~~an authorized agent~~ is required before psychotropic medication may be administered to the child; and

3) psychotropic medications~~medication~~ may only be administered pursuant to this Part.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 16877, effective October 1, 2011, for a maximum of 150 days)

Section 325.70 Miscellaneous Provisions

EMERGENCY

~~a) The Psychotropic Medication Approval form specified in Section 325.50(a) shall be attached as an exhibit to the Client Service Plan form for each psychotropic medication which is being administered.~~

~~b) When a child has a neurological or psychiatric condition for which the administration of psychotropic medications is likely, the Department shall request from the Juvenile Court the power to consent to major medical care including specifically the administration of psychotropic medication.~~

a)~~c)~~ Youth~~Minors~~ who have been declared emancipated for the purposes of consent to medical treatment by any court shall have the qualified right to refuse psychotropic medication as provided for adults in Sections 2-107 and 2-107.1 of the Illinois Mental Health and Developmental Disabilities Code [405 ILCS 5/2-107 and 2-107.1] but subject to Section 325.30(g)~~(c)~~.

b)~~d)~~ Youth~~Children~~ for whom the Department is legally responsible who have reached the age of 18 shall have the qualified right to refuse psychotropic medication as provided for adults in Sections 2-107 and 2-107.1 of the Illinois Mental Health and Developmental Disabilities Code [405 ILCS 5/2-107 and 2-107.1] but subject to Section 325.30(g)~~(c)~~.

(Source: Amended by emergency rulemaking at 35 Ill. Reg. 16877, effective October 1, 2011, for a maximum of 150 days)

Section 325.80 Violations of this Part
EMERGENCY

a) Violations by Physicians

1) For psychotropic medications that were started without consent, the Psychotropic Medication Consent Form from the Centralized Consent Unit shall indicate that it is a violation of this Part to prescribe a psychotropic medication to a foster child without the consent of the Guardian.

2) A first warning letter from the Department's Division of Guardian and Advocacy shall be sent to physicians who have received five such notifications. The letter shall inform the physician that it is a violation of this Part to prescribe a psychotropic medication to a foster child without the consent of the Guardian and that any further violations of this Part may result in a complaint being filed with the Illinois Department of Financial and Professional Regulation.

3) A second warning letter from the Division of Guardian and Advocacy shall be sent to any physician who has received an additional five such notifications. The letter shall inform the physician that it is a violation of this Part to prescribe a psychotropic medication to a foster child without the consent of the Guardian and that any further violations of this Part shall result in a complaint being filed with the Illinois Department of Financial and Professional Regulation.

4) A Violation Notification letter from the Division of Guardian and Advocacy shall be sent to any physician who has received an additional such notification. The letter shall inform the physician that the Guardian is lodging a complaint with the Illinois Department of Financial and Professional Regulation. The Guardian shall notify the Illinois Department of Financial and Professional Regulation by certified mail that the physician has repeatedly violated the consent requirement of this Part.

b) Violations by Group Homes and Residential Treatment Facilities

1) For psychotropic medications that were started without consent, the Psychotropic Medication Consent Form from the Centralized Consent Unit shall indicate that it is a violation of this Part to prescribe a psychotropic medication to a foster child without the consent of the Guardian.

2) A first warning letter from the Division of Guardian and Advocacy shall be sent to group homes and residential treatment facilities (hereafter referred to as the institution) who have received ten such notifications. The letter shall inform the institution that it is a violation of this Part to prescribe a psychotropic medication to a foster child without the consent of the Guardian and that any further violations of this Part may result in a licensing complaint being filed with the Illinois Department of Children and Family Services Division of Monitoring.

3) A second warning letter from the DCFS Division of Guardian and Advocacy shall be sent to institutions who have received an additional ten such notifications. The letter shall inform the institution that it is a violation of this Part to prescribe a psychotropic medication to a foster child without the consent of the Guardian and that any further violations of

this Part shall result in a licensing complaint being filed the Illinois Department of Children and Family Services Division of Monitoring.

4) A Violation Notification letter from the DCFS Division of Guardian and Advocacy shall be sent to any institution that has received an additional such notification. The letter shall inform the Director of the institution that the Guardian is lodging a licensing complaint with the Illinois Department of Children and Family Services Division of Monitoring. The Guardian shall notify the Illinois Department of Children and Family Services Division of Monitoring that the institution has repeatedly violated the consent requirement of this Part.

c) Violations by Psychiatric Hospitals or Psychiatric Units

1) For psychotropic medications that were started without consent, the Psychotropic Medication Consent Form from the Centralized Consent Unit shall indicate that it is a violation of this Part to prescribe a psychotropic medication to a foster child without the consent of the Guardian.

2) A first warning letter from the Division of Guardian and Advocacy shall be sent to psychiatric hospitals or psychiatric units (hereafter referred to as hospital) who have received ten such notifications. The letter shall inform the hospital that it is a violation of this Part to prescribe a psychotropic medication to a foster child without the consent of the Guardian and that any further violations of this Part may result in a licensing complaint being filed with the Illinois Department of Public Health.

3) A second warning letter from the Division of Guardian and Advocacy shall be sent to hospitals who have received an additional ten such notifications. The letter shall inform the hospital that it is a violation of this Part to prescribe a psychotropic medication to a foster child without the consent of the Guardian and that any further violations of this Part shall result in a licensing complaint being filed with the Illinois Department of Public Health.

4) A Violation Notification letter from the Division of Guardian and Advocacy shall be sent to any institution that has received an additional such notification. The letter shall inform the Director of the institution

that the Guardian is lodging a complaint with the Illinois Department of Public Health as a licensing violation. The Guardian shall notify the Illinois Department of Public Health by certified mail that the hospital has repeatedly violated the consent requirement of this Part.

d) Notice to Guardian ad Litem

The Guardian shall notify *the guardian ad litem appointed pursuant to Section 2-17 of the Juvenile Court Act of 1987* [705 ILCS 405/2.17] *of a ward who has been administered a psychotropic medication in violation of* [this Part] *when the guardian ad litem has requested notification and provides the Department with documentation verifying that, pursuant to the Mental Health and Developmental Disabilities Confidentiality Act, the court has entered an order granting the guardian ad litem authority to receive and review this information.* [20 ILCS 535/10(e)]

(Source: Added by emergency rulemaking at 35 Ill. Reg. 16877, effective October 1, 2011, for a maximum of 150 days)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENT

1) Heading of the Part: Supplemental Nutrition Assistance Program (SNAP)

2) Code Citation: 89 Ill. Adm. Code 121

3) Section Number: 121.59 Peremptory Action: Amendment

4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires this Peremptory Rulemaking: These changes are being made to conform with Food and Nutrition Service regulations.

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

6) Effective Date: October 1, 2011

7) A Complete Description of the Subjects and Issues involved: This rulemaking is being proposed to increase the asset limit from $3,000 to $3,250 for SNAP households with an elderly or disabled member. The change in this rulemaking is the result of Section 4104 of the Food, Conservation and Energy Act of 2008 (FECA) that provides for the increase in the SNAP asset limit to $3,250 for households with an elderly and disabled member. The $3,250 asset limit only applies to qualifying member SNAP households whose gross income exceeds the 200% Federal Poverty Level (FPL), or qualifying member units with a member sanctioned for an intentional program violation, or sanctioned for failure to comply with a work provision.

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

9) Date Filed with the Index Department: September 29, 2011

10) A copy of the peremptory rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

11) This rulemaking is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Section Numbers:	Proposed Action:	Illinois Register Citation:
121.20	Amendment	35 Ill. Reg. 1856; February 4, 2011
121.63	Amendment	35 Ill. Reg. 8273; June 3, 2011
121.117	Amendment	35 Ill. Reg. 8754; June 10, 2011
121.8	Repeal	35 Ill. Reg. 9228; June 24, 2011
121.125	Amendment	35 Ill. Reg. 9228; June 24, 2011

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

14) Information and questions regarding this peremptory amendment shall be directed to:

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

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENT

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

PART 121
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)
SUBPART A: APPLICATION PROCEDURES

Section
121.1 Application for Assistance
121.2 Time Limitations on the Disposition of an Application
121.3 Approval of an Application and Initial Authorization of Assistance
121.4 Denial of an Application
121.5 Client Cooperation
121.6 Emergency Assistance
121.7 Expedited Service
121.8 Express Stamps Application Project
121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
121.18 Work Requirement
121.19 Ending a Voluntary Quit Disqualification (Repealed)
121.20 Citizenship
121.21 Residence
121.22 Social Security Numbers
121.23 Work Registration/Participation Requirements
121.24 Individuals Exempt from Work Registration Requirements
121.25 Failure to Comply with Work Provisions
121.26 Periods of Sanction
121.27 Voluntary Job Quit/Reduction in Work Hours
121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section
121.30 Unearned Income

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENT

121.31 Exempt Unearned Income
121.32 Education Benefits (Repealed)
121.33 Unearned Income In-Kind
121.34 Lump Sum Payments and Income Tax Refunds
121.40 Earned Income
121.41 Budgeting Earned Income
121.50 Exempt Earned Income
121.51 Income from Work/Study/Training Programs
121.52 Earned Income from Roomers or Boarders
121.53 Income From Rental Property
121.54 Earned Income In-Kind
121.55 Sponsors of Aliens
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121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
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Section
121.220 Work Requirement Components (Repealed)
121.221 Meeting the Work Requirement with the Earnfare Component (Repealed)
121.222 Volunteer Community Work Component (Repealed)
121.223 Work Experience Component (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENT

121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

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

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1,

1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900,

effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for

a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; peremptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill. Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; peremptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; peremptory amendment at 28 Ill. Reg. 13834, effective October 1, 2004; emergency amendment at 28 Ill. Reg. 15323, effective November 10, 2004, for a maximum of 150 days; emergency expired April 8, 2005; amended at 29 Ill. Reg. 2701, effective February 4, 2005; amended at 29 Ill. Reg. 5499, effective April 1, 2005; peremptory amendment at 29 Ill. Reg. 12132, effective July 14, 2005; emergency amendment at 29 Ill. Reg. 16042, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; peremptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005; emergency amendment at 30 Ill. Reg. 7804, effective April 6, 2006, for a maximum of 150 days; emergency expired September 2, 2006; amended at 30 Ill. Reg. 11236, effective June 12, 2006; amended at 30 Ill. Reg. 13863, effective August 1, 2006; amended at 30 Ill. Reg. 15681, effective September 12, 2006; peremptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006; amended at 31 Ill. Reg. 6991, effective April 30, 2007; amended at 31 Ill. Reg. 10482, effective July 9, 2007; amended at 31 Ill. Reg. 11318, effective July 23, 2007; peremptory amendment at 31 Ill. Reg. 14372, effective October 1, 2007; amended at 32 Ill. Reg. 2813, effective February 7, 2008; amended at 32 Ill. Reg. 4380, effective March 12, 2008; amended at 32 Ill. Reg. 4813, effective March 18, 2008; amended at 32 Ill. Reg. 9621, effective June 23, 2008; peremptory amendment at 32 Ill. Reg. 16905, effective October 1, 2008; peremptory amendment to Sections 121.94(c), 121.96(d)(2) and 121.150(b) suspended at 32 Ill. Reg. 18908, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 200, effective February 5, 2009; peremptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 3514, effective February 5, 2009, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 18092, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4187, effective February 24, 2009, for a maximum of 150 days; emergency expired July 23, 2009; peremptory amendment at 33 Ill. Reg. 5537, effective April 1, 2009; emergency amendment at 33 Ill. Reg. 11322, effective July 20, 2009, for a maximum of 150 days; emergency expired December 16, 2009; amended at 33 Ill. Reg. 12802,

effective September 3, 2009; amended at 33 Ill. Reg. 14121, effective September 22, 2009; emergency amendment at 33 Ill. Reg. 14627, effective October 13, 2009, for a maximum of 150 days; emergency expired March 11, 2010; amended at 33 Ill. Reg. 16875, effective November 30, 2009; amended at 33 Ill. Reg. 17350, effective December 14, 2009; amended at 34 Ill. Reg. 4777, effective March 17, 2010; amended at 34 Ill. Reg. 5295, effective April 12, 2010; amended at 34 Ill. Reg. 5823, effective April 19, 2010; emergency amendment at 34 Ill. Reg. 6967, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 7265, effective May 10, 2010; amended at 34 Ill. Reg. 7685, effective May 18, 2010; amended at 34 Ill. Reg. 12547, effective August 11, 2010; peremptory amendment at 34 Ill. Reg. 15543, effective October 1, 2010; amended at 35 Ill. Reg. 1042, effective December 28, 2010; amended at 35 Ill. Reg. 7688, effective April 29, 2011; amended at 35 Ill. Reg. 10119, effective June 7, 2011; peremptory amendment at 35 Ill. Reg. 16118, effective October 1, 2011; peremptory amendment at 35 Ill. Reg. 16904, effective October 1, 2011.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 121.59 Asset Disregards

a) Households which are categorically eligible, as defined in Section 121.76, do not have to meet the asset limits in this Section.

b) $3,250~~3,000~~ for all households with a qualifying member, as defined in Section 121.61.

c) $2,000 for all other households.

(Source: Peremptory amendment at 35 Ill. Reg. 16904, effective October 1, 2011)

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 September 27, 2011 through October 3, 2011 and have been scheduled for review by the Committee at its October 11, 2011 or November 8, 2011 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
11/9/11	Pollution Control Board, Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)	11/19/10 34 Ill. Reg. 17513	10/11/11
11/9/11	Pollution Control Board, Standards and Limitations for Organic Material Emissions for Area Sources (35 Ill. Adm. Code 223)	11/19/10 34 Ill. Reg. 17525	10/11/11
11/9/11	Pollution Control Board, Air Quality Standards (35 Ill. Adm. Code 243)	11/19/10 34 Ill. Reg. 17537	10/11/11
11/9/11	Pollution Control Board, Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)	7/1/11 35 Ill. Reg. 10207	10/11/11
11/9/11	Pollution Control Board, Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)	7/1/11 35 Ill. Reg. 10189	10/11/11
11/11/11	Illinois Commerce Commission, Reports of Accidents or Incidents by Persons Engaging in the Transportation of Gas, or Who Own or Operate Gas Pipeline Facilities (83 Ill. Adm. Code 595)	4/1/11 35 Ill. Reg. 4861	11/8/11
11/13/11	Department of Children and Family Services,	5/27/11	11/8/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	Reports of Child Abuse and Neglect (89 Ill. Adm. Code 300)	35 Ill. Reg. 8005	
11/13/11	Department of Children and Family Services, Placement and Visitation Services (89 Ill. Adm. Code 301)	5/27/11 35 Ill. Reg. 8018	11/8/11
11/13/11	Department of Children and Family Services, Services Delivered by the Department of Children and Family Services (89 Ill. Adm. Code 302)	5/27/11 35 Ill. Reg. 8027	11/8/11
11/13/11	Department of Children and Family Services, Access to and Eligibility for Child Welfare Services (89 Ill. Adm. Code 304)	5/27/11 35 Ill. Reg. 8037	11/8/11
11/13/11	Department of Children and Family Services, Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible (89 Ill. Adm. Code 309)	5/27/11 35 Ill. Reg. 8047	11/8/11
11/13/11	Department of Children and Family Services, Permanency Planning (89 Ill. Adm. Code 315)	5/27/11 35 Ill. Reg. 8051	11/8/11
11/13/11	Department of Children and Family Services, Administrative Case Reviews and Court Hearings (89 Ill. Adm. Code 316)	5/27/11 35 Ill. Reg. 8060	11/8/11
11/13/11	Department of Children and Family Services, Licensing Standards for Foster Family Homes (89 Ill. Adm. Code 402)	5/27/11 35 Ill. Reg. 8064	11/8/11
11/13/11	Department of Children and Family Services, Licensing Standards for Day Care Homes (89 Ill. Adm. Code 406)	5/27/11 35 Ill. Reg. 8082	11/8/11
11/13/11	Department of Children and Family Services,	5/27/11	11/8/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Licensing Standards for Group Day Care Homes (89 Ill. Adm. Code 408)	35 Ill. Reg. 8093

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 35, Issue 42 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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