# 2012

# ILLINOIS REGISTER

Rules of
Governmental Agencies

Volume 36, Issue 30

July 27, 2012

Pages 11738-12180

Index Department
Administrative Code Division
111 E. Monroe St.
Springfield, IL 62756
217-782-7017

Printed by authority of the State of Illinois. July 2012 — 75

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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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 2012

| Issue # | Rules Due Date | Date of Issue |
|---|---|---|
| 1 | December 27, 2011 | January 6, 2012 |
| 2 | January 3, 2012 | January 13, 2012 |
| 3 | January 9, 2012 | January 20, 2012 |
| 4 | January 17, 2012 | January 27, 2012 |
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| 52 | December 17, 2012 | December 28, 2012 |

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Radiological Protection

2) Code Citation: 29 Ill. Adm. Code 320

3)

| Section Numbers: | Proposed Action: |
|---|---|
| 320.100 | Repealed |
| 320.110 | Repealed |
| 320.120 | Repealed |
| 320.130 | Repealed |
| 320.140 | Repealed |
| 320.150 | Repealed |
| 320.160 | Repealed |
| 320.200 | Repealed |
| 320.210 | Repealed |
| 320.220 | Repealed |
| 320.300 | Repealed |
| 320.310 | Repealed |
| 320.320 | Repealed |
| 320.330 | Repealed |
| 320.340 | Repealed |
| 320.350 | Repealed |
| 320.360 | Repealed |
| 320.370 | Repealed |
| 320.380 | Repealed |
| 320.390 | Repealed |
| 320.400 | Repealed |
| 320.410 | Repealed |
| 320.420 | Repealed |
| 320.430 | Repealed |
| 320.440 | Repealed |
| 320.500 | Repealed |
| 320.510 | Repealed |
| 320.520 | Repealed |
| 320.530 | Repealed |
| 320.540 | Repealed |
| 320.550 | Repealed |
| 320.560 | Repealed |
| 320.EXHIBIT A | Repealed |
| 320.EXHIBIT B | Repealed |

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

320.EXHIBIT C Repealed

4) Statutory Authority: Implementing and authorized by Sections 5(f) (2) and 5(f)(7) of the Illinois Emergency Services and Disaster Agency Act of 1975 (Ill. Rev. Stat. 1985., ch. 127, pars. 1105(f)(2) and 1105(f)(7))

5) A Complete Description of the Subjects and Issues Involved: The Agency is proposing to repeal 29 Ill. Adm. Code 320 because the program outlined in the existing regulation started to phase out in 2001, two years before IEMA merged with the Illinois Department of Nuclear Safety (IDNS), and is no longer existing or needed. IDNS took all the sources from IEMA, including recovering all sources loaned out to local governments for this training. In 2007, IEMA gave most of the kits to the University of Illinois for use/issue under a Health Physics Society program. IEMA has the capability to calibrate the CDV-700 instrument, but there is no demand to do so. Training on how to use sources is currently done using IEMA personnel so that loaning sources to local agencies is not required anymore. Use of sources and training of local government personnel is now controlled under radioactive material use permits issued by the IEMA Radiation Safety Committee. All source leak testing is done by the IEMA Radiation Safety Officer under the provisions of the IEMA radioactive material license. The source packaging and use procedures have changed from what is in this document.

6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking: None

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: The rulemaking is not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

12) Time, Place and Manner in which interested persons may comment on this proposed Rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. The Agency will consider fully

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Traci Burton
Paralegal Assistant
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois 62704

217/785-9860 (voice)
217/782-6133 (TDD)

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2012

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

TITLE 29: EMERGENCY SERVICES, DISASTERS AND CIVIL DEFENSE
CHAPTER I: EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER c: ADMINISTRATION AND ORGANIZATION OF POLITICAL SUBDIVISION EMERGENCY SERVICES AND DISASTER AGENCIES

PART 320
RADIOLOGICAL PROTECTION (REPEALED)

SUBPART A: RADIOLOGICAL EQUIPMENT

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320.100 Purpose
320.110 Policy
320.120 Definitions
320.130 Standards for the Acquisition of Radiation Detection Instruments
320.140 Defective Instruments
320.150 Stolen or Lost Instruments and/or Kits
320.160 Operational Checks

SUBPART B: RADIATION DETECTION KIT EXCHANGE

Section
320.200 Purpose
320.210 Policy
320.220 Radiation Detection Kit Exchange Procedures

SUBPART C: RADIOACTIVE TRAINING SOURCE SETS

Section
320.300 Purpose
320.310 Policy
320.320 Eligibility
320.330 Issuance of Permits
320.340 User Permit Holder Records
320.350 Custodians of Radiological Training Source Sets
320.360 Radiological Training Source Set Storage Location Criteria
320.370 Permanent Storage Area Survey Record
320.380 Procedures for Handling Radioactive Training Source Sets During Transportation and Storage

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

320.390 Student Safeguards During Radioactive Source Set Training
320.400 Procedures to Follow When Radioactive Training Capsules Are Discovered Missing
320.410 Handling Radioactive Training Capsules with Missing Radioactive Needles
320.420 Replacement of Rings and Tags on Radioactive Training Capsules
320.430 Wipe and Leak Tests
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SUBPART D: POLICY FOR THE DEVELOPMENT AND MAINTENANCE OF A RADIOLOGICAL PROTECTION PROGRAM

Section
320.500 Purpose
320.510 Policy
320.520 Duties and Responsibilities of Local Government Radiological Personnel
320.530 Criteria for Trained Radiological Protection Personnel
320.540 Radiological Annex to the Emergency Preparedness Plan
320.550 Radiological Protection Data Base
320.560 Roster of Trained Radiological Personnel

560.EXHIBIT A Manning and Station Quota Recommendations
560.EXHIBIT B Radiation Detection Equipment
560.EXHIBIT C Leak Testing Procedures

AUTHORITY: Implementing and authorized by Sections 5(f)(2) and 5(f)(7) of the Illinois Emergency Management Agency Act [20 ILCS 3305/5(f)(2) and 5(f)(7)].

SOURCE: Adopted and codified at 6 Ill. Reg. 14304, effective October 29, 1982; Part repealed, new Part adopted at 10 Ill. Reg. 19459, effective November 5, 1986; repealed at 36 Ill. Reg. _____, effective _____.

SUBPART A: RADIOLOGICAL EQUIPMENT

**Section 320.100 Purpose**

The purpose of this Subpart is to inform local emergency service and disaster agencies about procedures that are necessary to acquire, maintain and safeguard radiation detection equipment for radiological training and emergency operations.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

**Section 320.110 Policy**

This Subpart outlines procedures for the acquisition of radiation detection instruments by local governments; reporting instrument loss resulting from theft or other means; and, custodial operational checks to ensure the operability of the instruments at all times.

**Section 320.120 Definitions**

"Accredited Emergency Services and Disaster Agency" means the Emergency Services and Disaster Agency of a political subdivision which has been certified by the Illinois Emergency Services and Disaster Agency as having met the requirements to be recognized as an established Emergency Services and Disaster Agency in the State of Illinois according to 29 Ill. Adm. Code 300.40.

"Blast Over-Pressure" means blast waves resulting from a nuclear explosion that causes a pressure in excess of the normal atmospheric value.

"Emergency Information Reporting Stations (EIRS)" means a facility with reliable communication instruments and trained monitors that are designated for the collection and reporting of emergency information.

"Emergency Operations Center (EOC)" means a protected site from which civil government officials can exercise direction and control of operations in an emergency.

"Emergency Services and Disaster Agency (ESDA)" means the Emergency Services and Disaster Agency of a political subdivision, or an interjuris dictorial Emergency Services and Disaster Agency.

"Fallout Shelter" means an area that can provide refuge and protection against radiation.

"FEMA" means the Federal Emergency Management Agency.

"IDNS" means the Illinois Department of Nuclear Safety.

"IESDA" means The Illinois Emergency Services and Disaster Agency.

"Increased Readiness" means a state of emergency preparedness during a time

when world tensions are high and the probability of a nuclear attack is imminent. Emergency preparedness is designed to minimize the effects of a nuclear attack upon our civilization and to provide for the most efficient recovery following such an occurrence.

"In Shelter or Attack Phase" means a state of emergency preparedness during a time when a nuclear attack upon the United States has begun or dangerous radioactive contaminates have been released into the atmosphere requiring residents to seek shelter for safety.

"Local Government" means counties, incorporated cities, villages and towns, and townships.

"Maintenance and Calibration (M & C)" means a facility within IESDA where radiation detection equipment is repaired, modified and calibrated.

"Milliroentgen (mr)" means a submultiple of the roentgen equal to 1/1000 of a roentgen.

"Milliroentgen per hour (mr/hr)" means a measure of gamma radiation expressed in terms of 1/1000 of one roentgen per hour.

"Non-resident Training" means radiological personnel training that is provided through FEMA-approved courses that are offered at state and local government level by certified radiological protection instructors.

"NRC" means the Nuclear Regulatory Commission of the United States Government.

"Post Shelter Phase" means a condition following a nuclear attack or other radiological emergency when recovery operations have begun and when it is safe for residents to leave their shelters.

"Protection Factor (PF)" means a theoretical value that defines the ratio of the exposure rate from Gamma radiation to be expected in a protected location compared to the exposure rate expected with the same amount of radiation in a completely unprotected location.

"PSI" means pounds per square inch.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

"Radiation Detection Instruments" means radiation survey meters that are used in determining contaminated areas and exposure rates and exposure measuring instruments that are used for recording the total amount of an individuals exposure to radiation.

"Radiological Monitor" means radiological response personnel trained to detect and measure radiation using appropriate radiation detection equipment and trained to advise appropriate personnel accordingly.

"Radiological Protection Officer (RPO)" means the principal technical advisor within local government or state government emergency operations centers on matters pertaining to radiological protection.

"Radiological Protection Program (RPP)" means a state or local program that includes plans, procedures and systems designed to monitor, report and evaluate the radiological conditions resulting from a radiological emergency.

"Radiological Response Technician" means an emergency team member who is recruited from the spectrum of public and private sector emergency services, essential services and vital facilities who is responsible for providing technical support to the emergency services unit at the scene of an accident involving radioactive material.

"Resident Radiological Training" means radiological personnel training that is provided through FEMA-approved courses where student attendance at the National Training Academy in Emmittsburg, MD is required in resident status.

"Roentgen (r)" means a unit of exposure to gamma radiation.

"Roentgen per hour (r/hr) means a measure of the unit exposure to gamma radiation.

"Self-protection Stations" means state and local government facilities that are used for the protection of life and property, such as fire, police, welfare and rescue facilities.

**Section 320.130 Standards for the Acquisition of Radiation Detection Instruments**

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

a) Radiation detection instruments are contained in CD V-777-1 Kits and CD V-777-2 Kits. These kits may be used in either mobile monitoring or recovery missions in response to an accident or incident involving the release of radioactive contaminants into the environment. Local government agencies that want to acquire these kits must request them from the IESDA Radiological Protection Office through the IESDA Regional Coordinator. Radiation detection instruments and kits shall be issued if the requirements of subsection (320.130 (b)) below are met.

b) Requirements for the acquisition of radiation detection kits:

1) There must be two trained radiological monitors for each self-protection station, EIRS and EOC facility.

2) In order to acquire instruments to equip either a self-protection station or EIRS, telephone and/or radio equipment must be made available and operational with 2-way communication capability between the station, EIRS and EOC.

c) The minimum number of radiation detection kits recommended for each county is contained in Exhibit A. The quota cited in Exhibit A is a guideline and additional kits may be requested as necessary.

d) Types of radiation detection training equipment including radiation detection kits and their content are located in Exhibit B.

e) Procedure for ordering CD V-777-T Training Kit and CD V-778 Training Source Set. The CD V-777-T and the CD V-778 shall be requisitioned by local governments in the following manner:

1) CD V-777-T Training Kit.

A) One copy of the "Applications for Radiological Protection Trainings Kits" (RP Form 101) along with a statement indicating the time, location and the proposed date of radiological training shall be forwarded to the appropriate local ESDA coordinator who shall act as custodian of training kits. Local governments may request RP Form 101 from the IESDA Field Services division through their Regional Coordinator.

B) Training kits shall be issued by the local ESDA Coordinator upon the applicants compliance with this requirement.

2) CD V-778 Training Source Set.

A) Local government eligible applicants are those who possess a current source set user permit. A user permit may be obtained in accordance with Section 320.320. Local government eligible applicants may obtain a training source set from their local government source set custodian.

B) Source sets will be issued only for FEMA approved radiological training courses in accordance with "Management Plans for Radiological Series", TD-100, dated September 1984. A copy of this FEMA publication is available from IESDA at 110 East Adams Street in Springfield or from FEMA at 500 C Street, Southwest, Washington, DC 20024. Local government eligible applicants shall be issued a CD V-778 training source set only for the duration of the course.

3) Documentation: Upon receipt of any training kit (CD V-777-T) or source set (CD V-778) the recipient shall complete the "Receipt and Transfer Form" (RP Form 103) in the presence of the local custodian. The local custodian will retain one copy, return one copy to the user and forward the third copy to IESDA M & C Shop Manager.

f) Requisition procedures for additional kits and instruments. If a local government increases its number of EIRS, self-protection station or public fallout shelter beyond those recommended in Exhibit A, then the number of radiation detection kits recommended for that government in Exhibit A would also increase. If a local government desires additional radiation detection kits, then they must be requested by that government. To request additional kits, the local official shall write to the appropriate regional coordinator and inform that person of the increased location(s) and the quantity of additional kits desired. A local government requesting a radiation detection kit must certify in writing that the standards of subsection (320.130 (b)) have been met. If these conditions are met, kits will be issued on a first-come-first-served basis.

g) Record for all kits: Paragraph 3.1.1 of the FEMA publication entitled "Use and Maintenance of the RADEF Station (State Users Manual)" dated September 25, 1978 requires that all shelter locations be assigned a station identification number. The IESDA will assign a station identification number to all EIRS, shelters and self-protection stations within the state. All correspondence shall reference the assigned station identification number.

**Section 320.140 Defective Instruments**

a) Should any instruments be found defective while performing an operational check, the local government ESDA shall report the defect to the respective IESDA Regional Coordinator. The IESDA Regional Coordinator shall report the defect to either the IESDA M & C Shop Manager or to the IESDA Radiological Protection Officer.

b) Arrangements shall be made between the IESDA Regional Coordinator and the IESDA M & C Shop Manager for transfer and exchange of the defective instrument.

c) Subsequent follow-up to the IESDA M & C Shop by local governments concerning the status of defective equipment may be made to either the IESDA Radiological Protection Officer or the IESDA M & C Shop Manager.

**Section 320.150 Stolen or Lost Instruments and/or Kits**

a) Should any radiological instrument or kit be stolen, the local government concerned shall report the loss immediately to the police and request an investigation. The local government shall send a copy of the police report along with a letter requesting replacement of the stolen kit and/or instrument to the IESDA Regional Coordinator. The Regional Coordinator shall then forward a copy of the police report along with a replacement recommendation to the IESDA Radiological Officer.

b) A report shall be made immediately to the IESDA Regional Coordinator by the local government whenever the local government discovers a missing radiation detection instrument or a missing radiation detection kit and determines that either item was lost and not stolen. A follow-up written report concerning circumstances involved in the loss shall be sent to the IESDA Regional Coordinator within five work days following the loss. At a minimum the report

shall address the following:

1) Where the loss occurred.

2) Time the loss was discovered.

3) Explain in detail circumstances that led to the loss.

4) Explain efforts that were used to find the instrument and/or kit.

5) Explain what action is being taken to prevent a recurrence of the incident.

6) Request replacement, if desired.

7) The IESDA Regional Coordinator shall forward a copy of the written report to the IESDA Radiological Protection Officer along with a recommendation.

c) The Manager of the IESDA M & C Shop shall replace radiation detection instruments and/or radiation detection kits that have been lost or stolen upon notification of the IESDA Radiological Protection Officer.

d) If a radiation detection kit and/or instrument is reported either lost or stolen, a report of the circumstances surrounding this loss or theft shall be made immediately to the appropriate IESDA Regional Coordinator by the local government. The Regional Coordinator will then notify the IESDA Radiological Protection Officer.

**Section 320.160 Operational Checks**

Operational checks shall be performed semiannually on all radiation detection instruments issued to local governments. Therefore, operational checks shall be performed by either the local government ESDA coordinator, the radiological monitor or the local government radiological protection officer. Only procedures authorized in Chapter 5 of the FEMA Radiological Defense Manual (CPG 2.62), June 1977, edition, shall be used in conducting operational checks. A copy of this FEMA publication is available from IESDA or FEMA at the addresses in Section 320.130.

SUBPART B: RADIATION DETECTION KIT EXCHANGE

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

**Section 320.200 Purpose**

The purpose of this subpart is to establish procedures whereby radiation detection kits in the possession of local governments are exchanged at pre-established four-year intervals.

**Section 320.210 Policy**

a) Radiation detection kits are loaned by the IESDA to local governments throughout the state. Such disbursements are made for the purpose of protecting the health and safety of residents of the State of Illinois in the event of a nuclear emergency. Upon receipt of radiation detection instruments that are contained in radiation detection kits, local government officials shall prepare and maintain an updated inventory in order to account for these instruments and kits.

b) Periodically, radiation detection instruments that are contained within each radiation detection kit must be calibrated, repaired or retrofitted. Therefore, a recall of these instruments or kits distributed to the various agencies must be initiated. Whenever this occurs, radiation detection instrument or radiation detection kit exchange procedures are initiated to ensure that the radiation detection capability is not hindered.

**Section 320.220 Radiation Detection Kit Exchange Procedures**

a) Radiation detection kit exchange procedures are as follows:

1) Radiation detection kits in the possession of federal, state and local agencies will be exchanged on a four-year cycle through the IESDA M & C Shop on a kit-for-kit basis.

2) The radiation detection kits in the possession of local governments except Cook County, will be exchanged on a kit-for-kit basis through the county ESDA office. Arrangement for radiation detection kit exchange for local governments located in Cook County and counties that do not have ESDAs shall be made through the local government within that county. Arrangements for pick-up and delivery of radiation detection kits shall be made between the county ESDA coordinator or, in the case of Cook County and counties that do not have ESDAs, between the local government and the IESDA M & C Shop Manager at least one month

before the scheduled exchange. The County ESDA Coordinator except Cook County and counties that do not have ESDAs, is the point of contact through which local governments shall exchange radiation detection equipment.

3) Any radiation detection instrument or associated equipment that needs to be sent to the IESDA M & C Shop for any reason shall be transmitted through the IESDA Regional Coordinator's office pursuant to instructions contained in subsection (320.130(g)) of Subpart A.

b) Instrument Serial Numbers. Since radiation detection kit exchange will occur on a kit-for-kit basis, local governments shall ensure that each radiation detection kit contains only the type, model, and quantity of instruments that have been assigned to that particular kit. Each radiation detection kit will contain the type and quantity of items shown in Exhibit B. Radiation detection kits with missing radiation detection instruments or radiation detection kits with inappropriate radiation detection instrument model counts shall be so noted. The IESDA M & C Shop will not give full credit for radiation detection kits missing any radiation detection instruments and Associated equipment.

AGENCY NOTE: THE IESDA M & C SHOP WILL NOT ACCEPT RADIATION DETECTION INSTRUMENTS OR RADIATION DETECTION KITS FROM ANY SOURCE OTHER THAN AN IESDA REGIONAL COORDINATOR, A COUNTY ESDA COORDINATOR, FEDERAL OR STATE AGENCIES OR, IN COOK COUNTY, THE LOCAL GOVERNMENT DESIGNEE.

SUBPART C: RADIOACTIVE TRAINING SOURCE SETS

**Section 320.300 Purpose**

The purpose of this Subpart is to establish procedures that are to be followed by authorized users of radioactive training source sets. These procedures have been developed to safeguard the user and supervise the use of radioactive training source sets. Policies established in this Subpart apply to sets being stored or used in support of radiological protection training programs conducted within the State of Illinois. Furthermore, it establishes policy consistent with the Nuclear Regulatory Commission licensing requirements (10 CFR 30) for byproduct material.

**Section 320.310 Policy**

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

a) The Nuclear Regulatory Commission has issued a by-product material license to the Illinois Emergency Services and Disaster Agency. This license authorizes IESDA to receive, possess, acquire, use, transfer or otherwise dispose of by-product materials. Pursuant to the provisions of the NRC license, IESDA will issue user permits in accordance with the rules outlined in Sections 320.320 and 320.330. IESDA shall exercise strict control and accountability for all by-product material in its possession.

b) The procedures regarding radiological exposure control, storage, safety, handling and transportation are designed to satisfy Federal requirements (10 CFR 20) as well as to ensure the safety and well-being of individuals who may become users of the radioactive training source set.

**Section 320.320 Eligibility**

The following criteria shall be used to determine eligibility for a radioactive training source set user permit:

a) Local government ESDA Coordinators who desire to have individuals within their jurisdiction qualify for a user permit shall submit a request through their appropriate IESDA Regional Coordinator indicating the individuals name, position and previous radiological protection training. The IESDA Regional Coordinator shall review the request and forward a recommendation to the IESDA Radiological Protection Officer.

b) In order to qualify for a user permit each applicant must be a graduate of each of the following FEMA approved Radiological Protection Courses.

1) Fundamentals Course for Radiological Monitors (FCRM)

2) Fundamentals Course for Radiological Response Teams (FCRRT)

3) Radiological Monitors Instructors Course (RMIC)

c) Local ESDA government applicants who have not met training requirements may enter IESDA's radiological training program by making arrangements with either the IESDA Training Office or the IESDA Radiological Protection Officer through their appropriate IESDA Regional Coordinator.

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**Section 320.330 Issuance of Permits**

a) The IESDA Director shall issue user permits upon the certification of the IESDA Radiological Protection Officer that the applicant has completed all required training.

b) User permits will be valid for three years from the date of issuance unless circumstances arise that would require revocation. Such circumstances would be:

1) Failure to correctly handle, store and safeguard radiological source sets in accordance with 10 CFR 20 and the requirements of this part.

2) An authorized user who leaves the State for a permanent change of residence.

3) An authorized user who for any reason requests revocation of his/her permit.

c) The IESDA Radiological Protection Officer shall, upon notification of the IESDA Director, issue authorized users a renewed permit at least 30 days prior to the expiration date of their current users permit.

**Section 320.340 User Permit Holder Records**

a) The IESDA Radiological Protection Officer and the IESDA M & C Shop Manager shall maintain a list of the names, addresses and telephone numbers of all qualified users.

b) Local governments shall notify the IESDA Radiological Protection Officer of permanent changes to telephone numbers and mailing addresses of local government user permit holders.

**Section 320.350 Custodians of Radiological Training Source Sets**

a) A custodian is an authorized user permit holder who volunteers to store and have available a training source set that is accessible to radiological instructors in his or her area. Because of limited quantities, training source sets will be distributed in a manner that will be accessible to radiological instructors in all IESDA regions

of the state. A custodian must provide storage for radiological training source sets that meets the requirements of 10 CFR 20.

b) Custodians shall adhere to the following procedures:

1) A custodian may loan any holder of a valid user permit temporary custody of not more than one radiological training source set.

2) Whenever a radiological training source set is loaned to a user permit holder by a custodian, it must be returned within seven days from completion of the training course for which it was borrowed.

3) Custodians are responsible for ensuring that each individual who borrows a radiological training source set has a valid user permit.

4) The appropriate receipt and transfer form (see Subsection 320.130(e)(3)) must be completed in triplicate before a radiological training source set can be loaned or returned.

5) Each custodian shall adhere to 10 CFR 19, 20 and 30, dated July 29, 1983, and IESDA Rules.

**Section 320.360 Radiological Training Source Set Storage Location Criteria**

a) Permanent storage locations of radiological training source sets cannot be changed without written approval of the IESDA Radiological Protection Officer or the IESDA Director. Approval shall be granted if the new location has met the conditions set forth in Section 320.370 of this Subpart.

b) No person, other than the IESDA Radiological Protection Officer or the IESDA Director, may reassign a storage area for radiological training source sets.

c) Temporary storage areas will be selected on the basis of security. Temporary storage areas shall have restricted entry and shall not be open to the general public.

**Section 320.370 Permanent Storage Area Survey Record**

a) Each custodian of a radiological training source set shall make a sketch of the

permanent storage area and indicate the location of the radiological training source set in their possession with the proximity of other areas of the building.

b) Using a CD V-700 low range survey meter with the shield closed, each custodian shall survey outside of the access doors and any exterior walls of the room where the source set is stored. The outside radiation survey levels shall be recorded on the sketch.

c) Any reading in excess of 2 mr/hr shall be reported to the IESDA Radiological Protection Officer.

d) Area surveys shall be made on each January and July.

e) New surveys are required if the permanent storage area is altered or if the number of radiological training source sets has changed.

f) The IESDA Radiological Protection Officer shall inspect each storage area annually to determine if the requirements of 10 CFR 20 and this part are being complied with.

**Section 320.380 Procedures for Handling Radioactive Training Source Sets During Transportation and Storage**

a) Source sets that are being transferred shall be handled and transported by either an authorized user, custodian or an Illinois Commerce Commission licensed carrier.

b) Whenever the radioactive training source set is being transported or stored, the radioactive capsules shall be enclosed in the CD V-79l small lead container which shall be enclosed inside the CD V-792 large lead container. The CD V-792 large lead container shall be secured by two padlocks.

c) The two standard radioactive yellow II labels that are on the CD V-792 large lead container shall be visible at all times.

d) No vehicle placards are necessary when transporting radioactive training source sets.

e) The shippers certification for restricted articles "RP Form 106" shall be with the radioactive training source set whenever it is being transported from one location

to another.

f) Permanent storage areas in which the radioactive training source sets are stored shall be posted with a standard size 8½ inch x 11 inch "Caution...Radioactive Material" signs. Below this sign shall be a 3 inch x 5 inch card showing the name, address and telephone number of the person to contact in case of an emergency. All radioactive training source sets shall be secured against unauthorized removal. The radioactive training source set shall be secured in a locked cabinet, vault or room at all times when not in use.

g) The radioactive training source set shall also be supplied with six 6 inch x 8 inch "Danger Radiation Area" signs which shall be used to post the training area.

h) Remote handling tongs, 18 inches long, shall be used should the sealed capsules need to be removed from the sealed container during storage or while being transported. Radioactive needles shall not, under any circumstances, be removed from the sealed capsules.

**Section 320.390 Student Safeguards During Radioactive Source Set Training**

a) The CD V-138 (0-200 mr) and the CD V-742 (0-200 r) dosimeter will be worn by the instructors and students while the radioactive training source set is being used for training. Exposure readings appearing on the dosimeter shall be recorded on the students individual exposure record forms.

b) Students shall be warned against picking up capsules with their hands and they shall be observed to ensure compliance.

c) Whenever leak tests are performed in class, the instructor shall ensure that they are carried out in accordance with leak testing procedures outlined in Exhibit C of this rule.

d) Whenever radioactive capsules are removed from their lead container, students should be kept a distance of at least 18 inches as a precautionary measure against radioactive exposure.

**Section 320.400 Procedures to Follow When Radioactive Training Capsules Are Discovered Missing**

a) After each use, the capsules shall be inventoried as they are being returned to their CD V-791 lead container. (There should be a total of six capsules). If for any reason any of the radioactive capsules is discovered missing, the user permit holder shall search the training area immediately. If all of the radioactive capsules cannot be found and accounted for, the authorized user permit holder shall notify the appropriate IESDA Regional Coordinator immediately following the search. The IESDA Regional Coordinator shall immediately notify the IESDA Radiological Protection Officer.

b) The authorized user shall secure the remainder of the capsules in the radioactive training source set, pending further instruction from IESDA Radiological Protection Officer.

c) The IESDA Radiological Protection Officer shall then immediately notify the Nuclear Regulatory Commission and the Illinois Department of Nuclear Safety.

**Section 320.410 Handling Radioactive Training Capsules with Missing Radioactive Needles**

a) If a radioactive needle is discovered missing from its capsule, the remaining complete capsules shall be secured in the radioactive training source set container and removed from the general area. The general area shall then be surveyed carefully with the aid of an open shield CD V-700 survey meter until the missing needle is located. Meanwhile, the precautions in Section 320.400 of this Subpart shall be followed. The area shall also be secured against entry by the general public.

b) If found, the radioactive needle shall be picked up in a method which will enable the individual to keep the radioactive needle intact and away from his person. The empty capsule and other radioactive capsules along with the radioactive needle shall be secured in the radioactive training source set container and marked "unusable".

c) Upon locating the radioactive needle and placing it in a lead container, the entire area, including personnel and equipment, shall be surveyed with a CD V-700 survey meter (with shield open) to ensure that no radioactive contamination is present. If the area, personnel and equipment are free of contamination, then the area can be returned to normal use.

d) Immediately after an incident of this type occurs, the radioactive training source set user shall inform the appropriate IESDA Regional Coordinator who shall then notify the IESDA Radiological Protection Officer. The source set shall be placed in storage and kept secure pending disposition instructions.

e) If the radioactive needle cannot be located the authorized user shall secure the area against unauthorized entry and immediately contact the appropriate IESDA Regional Coordinator who shall immediately notify IESDA Radiological Protection Officer.

**Section 320.420 Replacement of Rings and Tags on Radioactive Training Capsules**

a) All sealed radioactive training capsules will be attended to by the user permit holder whenever they are not in the standard containers and secured under lock and key. The ring and radioactive warning tag on a radioactive training capsule shall not be removed.

b) If a ring and tag becomes detached from the radioactive capsule for any reason, it shall be replaced in accordance with procedures and regulations for the care, use and control of the CD V-778 Radiation Training Source Set; which is a publication of FEMA dated November 1983. A copy of this FEMA publication is available from IESDA or FEMA at the addresses in Section 320.130.

c) Replacement of rings and tags on the radioactive capsule shall be the responsibility of the IESDA M & C Shop manager.

**Section 320.430 Wipe and Leak Tests**

The IESDA Radiological Protection Officer, the IESDA M & C Shop Manager, the IESDA Regional Coordinator and other designated custodians shall be considered qualified users of radioactive training source sets by virtue of their training, position and user permit license. These individuals shall be responsible for conducting inventory and performing leak tests on all radiological training source sets assigned to them (see Exhibit C). Tests shall be conducted during January and July of each year.

a) All wipes and leak test results shall be sent to the IESDA M & C Shop within five days of completion.

b) Leak test results shall be reported on RP form 105. Failure of the custodian to

send the required wipes and leak test results form shall result in loss of custodianship designation.

**Section 320.440 Exposure Records**

Dosimeters shall be worn by the training source set user and by the student whenever leak tests are being conducted or whenever radioactive capsules are being used in radiation training.

a) Exposure record forms shall be available upon request from either the IESDA Regional Coordinator's office or the IESDA M & C Shop Manager.

b) These exposure record forms shall be maintained by the radiation training source set user and by students training in radiation detection while they are exposed to the radiological training source set capsules. Copies of exposure records shall be sent to the IESDA M & C Shop Manager in Springfield, IL as soon after leak testing or training as possible.

c) No individual shall receive more than l00 mr total exposure during any seven consecutive days or more than 5 r total exposure during any calendar year.

d) Any exposure record indicating that either one of the above limitations to radiation exposure has been exceeded shall be reported immediately to the appropriate IESDA Regional Coordinator who shall then notify the IESDA State Radiological Protection Officer.

e) Pursuant to 10 CFR 20, Section 20.104, persons under eighteen years of age shall not be permitted to enter any area where radioactive source sets are stored or used.

SUBPART D: POLICY FOR THE DEVELOPMENT AND MAINTENANCE OF A RADIOLOGICAL PROTECTION PROGRAM

**Section 320.500 Purpose**

This subpart outlines procedures for the development and maintenance of a Radiological Protection Program that is necessary to provide Illinois jurisdictions with the plans, procedures, instrumentation, facilities and trained personnel combined into a complete operational system that can function to minimize the effects of radiation hazards resulting from a peacetime radiological emergency or nuclear attack.

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**Section 320.510 Policy**

a) The State government in coordination and cooperation with federal and local governments shall develop and execute a radiological protection program designed to monitor, analyze and reduce the radiological hazards following a nuclear attack as well as hazards involved in peacetime radiological emergencies.

b) A radiological protection program shall be developed by state and local governments that meets the following criteria:

1) Develops and maintains a state radiological protection system.

2) Develops and maintains local government radiological protection systems with inherent capability for nuclear attack and peacetime radiological emergency response.

3) Ensures functional and operational exercises of developed radiological protection systems.

4) Provides technical support for statewide training of Radiological Protection Officer, Radiological Response Technicians, and Radiological Monitors.

5) Maintains a profile of State and local government radiological protection systems and their capabilities and level of readiness.

**Section 320.520 Duties and Responsibilities of Local Government Radiological Personnel**

Local Government Radiological Protection Personnel shall be assigned duties and responsibilities consistent with FEMA standards and guidelines of "Objectives for Local Emergency Management (CPG 1-5)", dated July 1984, "Guide for Development of State and Local Emergency Operations Plans (CPG 1-8)", dated October 1985, and "Guide for the Design and Development of a Local Radiological Defense Support System (CPG 1-30)", dated June 1981. These are all FEMA publications. A copy of each of the aforementioned publications is available from IESDA, 110 East Adams Street in Springfield, Illinois, or from FEMA at 500 C Street, Southwest, Washington, D.C.

**Section 320.530 Criteria for Trained Radiological Protection Personnel**

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a) A cadre of radiological personnel shall be available at local government ESDAs to handle potential radiological emergencies resulting from peacetime incidents or the effects of nuclear weapon detonation. Therefore, local government agencies shall recruit and assign personnel to the following positions after they become adequately trained

1) Radiological Protection Officer

2) Radiological Response Technician

3) The Radiological Monitor

4) Radiological Instructors

b) Personnel are considered adequately trained and may be assigned to the preceding positions when they have met the following non-resident training requirements as specified in FEMA's "Management Plan for the Radiological Training Series" (TD 100), dated September 1984. This publication is available from IESDA, 110 East Adams Street in Springfield, Illinois, or from FEMA at 500 C Street, Southwest, Washington, DC.

| Position | Training Requirement |
|---|---|
| Radiological Monitor | Fundamentals Course for Radiological Monitors (FCRM) |
| Radiological Response Technician | Fundamentals Course for Radiological Monitors (FCRM)<br>Fundamentals Course for Radiological Response Teams (FCRRT) |
| Radiological Officers | Fundamentals Course for Radiological Monitors (FCRM)<br>Fundamentals Course for Radiological Response Teams (FCRRT)<br>Fundamentals Course for Radiological Officers (FCRO) |

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| | |
|---|---|
| Radiological Monitor Instructor | Fundamentals Course for Radiological Monitors (FCRM)<br>Fundamentals Course for Radiological Response Teams (FCRRT)<br>Radiological Monitor Instructor Course (RMIC) |

c) Local government ESDAs shall be responsible for conducting training for Radiological Monitors. The IESDA shall be responsible for conducting training for local government Radiological Response Technicians, Radiological Protection Officers and Radiological Monitor Instructors.

d) The IESDA Radiological Protection Officer shall also provide technical support for statewide training of Radiological Officers, Radiological Response Technicians (RRT) and Radiological Monitors. Technical support includes:

1) A semi-annual review of radiological protection non-resident course material to assure that it is accurate and current.

2) Observation of radiological protection training classes to determine that course content complies with the requirements of courses listed in Section 320.530(b).

3) Monitoring of class schedules to ensure that an appropriate supply of qualified personnel are being trained to fulfill state needs.

e) The local government ESDAs shall comply with the policies specified in 29 Ill. Adm. Code 110.30.

**Section 320.540 Radiological Annex to the Emergency Preparedness Plan**

a) General Provisions

1) A Radiological Protection Plan shall be prepared as an Annex to the local government's Emergency Preparedness Plan in compliance with 29 Ill. Adm. Code 205.40(a)(1)-(a)(10).

2) The following provisions shall also apply:

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A) The Radiological Protection Annex shall pertain only to hostile incidents or peacetime accidents involving the release of radioactive contaminants into the environment.

B) The IESDA Radiological Protection Officer shall, upon request, assist local government agencies with Emergency Radiological Plan Preparation. Requests for assistance shall be made in writing to the IESDA Radiological Protection Officer in Springfield, IL through the IESDA Regional Coordinator. The IESDA Radiological Protection Officer shall, in agreement with the local government agency, schedule on-site visits to perform technical assistance and plan updates.

C) The IESDA Radiological Protection Officer shall also assist local government agencies with scheduling, organizing and conducting exercises consistent with developed radiological protection systems. The local government shall contact the IESDA Radiological Officer through the appropriate IESDA Regional Coordinator at least 30 days prior to the scheduled date of the exercise.

**Section 320.550 Radiological Protection Data Base**

a) Local government agencies shall provide data to the IESDA Radiological Protection Officer relative to their radiological protection systems in three major categories in accordance with FEMA letter "Radiological Protection Data Base Instructions for Completing Interim Report RPDB-001" dated November 22, 1985. A copy of this letter is available at the Springfield and Washington addresses cited in Section 320.130.

b) Local governments shall provide input into the data base by filling in the Radiological Protection Data Base Interim Report RPDB-001 form and sending it to the IESDA Radiological Protection Officer. This form may be obtained from the IESDA Radiological Protection Officer.

c) These data base reports shall be submitted to the IESDA Radiological Protection Officer quarterly on December 3l, March 3l, June 30 and September 30. If there has been no change in the data during the quarter, the local government shall so indicate.

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**Section 320.560 Roster of Trained Radiological Personnel**

a) The IESDA Radiological Officer shall develop and maintain a current roster of all trained Radiological Protection Officers, Radiological Response Technicians and Radiological Monitors within the State to include as a minimum, the date, types of training and their present assignment by title.

b) Local government agencies shall submit an initial roster of trained personnel to the IESDA Radiological Officer through the IESDA Regional Coordinator. Changes to the roster shall be submitted to the IESDA Radiological Officer accordingly, as they occur.

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**Section 320.EXHIBIT A Manning and Station Quota Recommendations**

It is intended that this data be used as follows:

- To establish some minimum goals that local governments should direct their Radiological Protection planning efforts toward.

- As a guide in which local governments may refer to in their integrated planning efforts. Detailed local information on local government stations may be obtained on request through the IESDA in Springfield, Illinois.

| COUNTY | NUMBER | EOC | RPO | RM | E.I.R.S. | SELF-PROTECTION STATIONS | SHELTERS | RADIATION DETECTION KITS |
|---|---|---|---|---|---|---|---|---|
| Adams | 05-17001-00000 | 1 | 2 | 274 | 22 | 44 | 71 | 138 |
| Alexander | 05-17003-00000 | 1 | 2 | 84 | 10 | 20 | 12 | 43 |
| Bond | 05-17005-00000 | 1 | 2 | 78 | 7 | 18 | 14 | 40 |
| Boone | 05-17007-00000 | 1 | 2 | 82 | 8 | 16 | 17 | 42 |
| Brown | 05-17009-00000 | 1 | 2 | 66 | 9 | 18 | 6 | 34 |
| Bureau | 05-17011-00000 | 1 | 2 | 210 | 22 | 44 | 39 | 106 |
| Calhoun | 05-17013-00000 | 1 | 2 | 60 | 8 | 16 | 6 | 31 |
| Carroll | 05-17015-00000 | 1 | 2 | 122 | 14 | 28 | 19 | 62 |
| Cass | 05-17017-00000 | 1 | 2 | 98 | 14 | 28 | 14 | 57 |
| Champaign | 05-17019-00000 | 1 | 2 | 494 | 28 | 56 | 163 | 248 |
| Christian | 05-17021-00000 | 1 | 2 | 168 | 16 | 32 | 36 | 85 |
| Clark | 05-17023-00000 | 1 | 2 | 122 | 15 | 30 | 16 | 62 |
| Clay | 05-17025-00000 | 1 | 2 | 102 | 12 | 24 | 15 | 53 |
| Clinton | 05-17027-00000 | 1 | 2 | 146 | 15 | 30 | 28 | 74 |
| Coles | 05-17029-00000 | 1 | 2 | 168 | 12 | 24 | 48 | 85 |
| Cook | 05-17031-00000 | 2 | 4 | 11134 | 25 | 50 | 5492 | 5569 |
| Crawford | 05-17033-00000 | 1 | 2 | 94 | 9 | 18 | 20 | 48 |
| Cumberland | 05-17035-00000 | 1 | 2 | 68 | 8 | 16 | 10 | 35 |
| DeKalb | 05-17037-00000 | 1 | 2 | 218 | 19 | 36 | 72 | 128 |
| DeWitt | 05-17039-00000 | 1 | 2 | 118 | 14 | 28 | 17 | 60 |
| Douglas | 05-17041-00000 | 1 | 2 | 92 | 9 | 18 | 19 | 47 |
| DuPage | 05-17043-00000 | 1 | 2 | 1036 | 9 | 18 | 491 | 519 |
| Edgar | 05-17045-00000 | 1 | 2 | 134 | 15 | 30 | 22 | 68 |
| Edwards | 05-17047-00000 | 1 | 2 | 62 | 8 | 16 | 7 | 32 |
| Effingham | 05-17049-00000 | 1 | 2 | 146 | 16 | 32 | 25 | 74 |
| Fayette | 05-17051-00000 | 1 | 2 | 126 | 14 | 28 | 21 | 64 |
| Ford | 05-17053-00000 | 1 | 2 | 104 | 12 | 24 | 16 | 53 |
| Franklin | 05-17055-00000 | 1 | 2 | 148 | 12 | 24 | 38 | 75 |
| Fulton | 05-17057-00000 | 1 | 2 | 222 | 23 | 46 | 42 | 112 |
| Gallatin | 05-17059-00000 | 1 | 2 | 68 | 9 | 18 | 7 | 35 |
| Greene | 05-17061-00000 | 1 | 2 | 112 | 13 | 26 | 17 | 57 |
| Grundy | 05-17063-00000 | 1 | 2 | 138 | 14 | 28 | 27 | 70 |
| Hamilton | 05-17065-00000 | 1 | 2 | 90 | 12 | 24 | 9 | 46 |
| Hancock | 05-17067-00000 | 1 | 2 | 192 | 24 | 48 | 24 | 97 |

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| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Hardin | 05-17069-00000 | 1 | 2 | 40 | 5 | 10 | 5 | 21 |
| Henderson | 05-17071-00000 | 1 | 2 | 82 | 11 | 22 | 8 | 42 |
| Henry | 05-17073-00000 | 1 | 2 | 250 | 24 | 48 | 53 | 126 |
| Iroquois | 05-17075-00000 | 1 | 2 | 218 | 25 | 50 | 34 | 110 |
| Jackson | 05-17077-00000 | 1 | 2 | 206 | 16 | 32 | 55 | 104 |
| Jasper | 05-17079-00000 | 1 | 2 | 82 | 10 | 20 | 11 | 42 |
| Jefferson | 05-17081-00000 | 1 | 2 | 158 | 16 | 32 | 31 | 80 |
| Jersey | 05-17083-00000 | 1 | 2 | 108 | 12 | 24 | 18 | 55 |
| JoDaviess | 05-17085-00000 | 1 | 2 | 176 | 22 | 44 | 22 | 89 |
| Johnson | 05-17087-00000 | 1 | 2 | 70 | 9 | 18 | 8 | 36 |
| Kane | 05-17089-00000 | 1 | 2 | 592 | 15 | 30 | 251 | 297 |
| Kankakee | 05-17091-00000 | 1 | 2 | 290 | 16 | 32 | 97 | 146 |
| COUNTY | NUMBER | EOC | RPO | RM | E.I.R.S. | STATIONS | SELF-PROTECTION SHELTERS | RADIATION DETECTION KITS |
| Kendall | 05-17093-00000 | 1 | 2 | 106 | 9 | 18 | 26 | 54 |
| Knox | 05-17095-00000 | 1 | 2 | 242 | 20 | 40 | 61 | 122 |
| Lake | 05-17097-00000 | 1 | 2 | 862 | 16 | 32 | 383 | 432 |
| LaSalle | 05-17099-00000 | 1 | 2 | 444 | 37 | 74 | 111 | 223 |
| Lawrence | 05-17101-00000 | 1 | 2 | 90 | 9 | 18 | 18 | 46 |
| Lee | 05-17103-00000 | 1 | 2 | 208 | 22 | 44 | 38 | 105 |
| Livingston | 05-17105-00000 | 1 | 2 | 262 | 30 | 60 | 41 | 132 |
| Logan | 05-17107-00000 | 1 | 2 | 164 | 16 | 32 | 34 | 83 |
| McDonough | 05-17109-00000 | 1 | 2 | 182 | 18 | 36 | 37 | 92 |
| McHenry | 05-17111-00000 | 1 | 2 | 320 | 16 | 32 | 112 | 161 |
| McLean | 05-17113-00000 | 1 | 2 | 388 | 30 | 60 | 104 | 195 |
| Macon | 05-17115-00000 | 1 | 2 | 346 | 16 | 32 | 125 | 174 |
| Macoupin | 05-17117-00000 | 1 | 2 | 244 | 26 | 52 | 44 | 123 |
| Madision | 05-17119-00000 | 1 | 2 | 646 | 24 | 48 | 251 | 324 |
| Marion | 05-17121-00000 | 1 | 2 | 180 | 17 | 34 | 39 | 91 |
| Marshall | 05-17123-00000 | 1 | 2 | 98 | 12 | 13 | 13 | 39 |
| Mason | 05-17125-00000 | 1 | 2 | 110 | 13 | 26 | 16 | 56 |
| Massac | 05-17125-00000 | 1 | 2 | 82 | 9 | 18 | 14 | 42 |
| Menard | 05-17127-00000 | 1 | 2 | 92 | 12 | 24 | 10 | 47 |
| Mercer | 05-17131-00000 | 1 | 2 | 124 | 15 | 30 | 17 | 63 |
| Monroe | 05-17133-00000 | 1 | 2 | 98 | 10 | 20 | 19 | 50 |
| Montgomery | 05-17135-00000 | 1 | 2 | 174 | 19 | 38 | 30 | 88 |
| Morgan | 05-17137-00000 | 1 | 2 | 174 | 17 | 34 | 36 | 88 |
| Moultrie | 05-17139-00000 | 1 | 2 | 74 | 8 | 16 | 13 | 38 |
| Ogle | 05-17141-00000 | 1 | 2 | 236 | 25 | 50 | 43 | 119 |
| Peoria | 05-17143-00000 | 1 | 2 | 504 | 19 | 38 | 195 | 253 |
| Perry | 05-17145-00000 | 1 | 2 | 88 | 8 | 16 | 20 | 45 |
| Piatt | 05-17147-00000 | 1 | 2 | 80 | 8 | 16 | 16 | 41 |
| Pike | 05-17149-00000 | 1 | 2 | 182 | 24 | 48 | 19 | 92 |
| Pope | 05-17151-00000 | 1 | 2 | 86 | 13 | 26 | 4 | 44 |
| Pulaski | 05-17153-00000 | 1 | 2 | 84 | 11 | 22 | 9 | 43 |
| Putnam | 05-17155-00000 | 1 | 2 | 34 | 4 | 8 | 5 | 18 |
| Randolph | 05-17157-00000 | 1 | 2 | 188 | 21 | 42 | 31 | 95 |
| Richland | 05-17159-00000 | 1 | 2 | 88 | 9 | 18 | 17 | 45 |
| Rock Island | 05-17161-00000 | 1 | 2 | 442 | 18 | 36 | 167 | 222 |
| St. Clair | 05-17163-00000 | 1 | 2 | 684 | 19 | 38 | 285 | 343 |
| Saline | 05-17165-00000 | 1 | 2 | 124 | 12 | 24 | 26 | 63 |
| Sangamon | 05-17167-00000 | 1 | 2 | 478 | 26 | 52 | 161 | 240 |

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|---|---|---|---|---|---|---|---|---|
| Schuyler | 05-17169-00000 | 1 | 2 | 94 | 13 | 26 | 8 | 48 |
| Scott | 05-17171-00000 | 1 | 2 | 102 | 15 | 30 | 6 | 52 |
| Shelby | 05-17173-00000 | 1 | 2 | 190 | 24 | 48 | 23 | 96 |
| Stark | 05-17175-00000 | 1 | 2 | 64 | 8 | 16 | 8 | 33 |
| Stephenson | 05-17177-00000 | 1 | 2 | 200 | 17 | 34 | 49 | 101 |
| Tazewell | 05-17179-00000 | 1 | 2 | 352 | 19 | 38 | 119 | 177 |
| Union | 05-17181-00000 | 1 | 2 | 116 | 14 | 28 | 16 | 59 |
| Vermilion | 05-17183-00000 | 1 | 2 | 308 | 19 | 38 | 97 | 155 |
| Wabash | 05-17185-00000 | 1 | 2 | 78 | 8 | 16 | 15 | 40 |
| Warren | 05-17187-00000 | 1 | 2 | 134 | 15 | 30 | 22 | 68 |
| Washington | 05-17189-00000 | 1 | 2 | 118 | 15 | 30 | 14 | 60 |
| Wayne | 05-17191-00000 | 1 | 2 | 148 | 19 | 38 | 17 | 75 |
| White | 05-17193-00000 | 1 | 2 | 94 | 10 | 20 | 17 | 48 |
| Whiteside | 05-17195-00000 | 1 | 2 | 252 | 21 | 42 | 63 | 127 |
| Will | 05-17197-00000 | 1 | 2 | 642 | 24 | 48 | 249 | 322 |
| Williamson | 05-17199-00000 | 1 | 2 | 170 | 12 | 24 | 49 | 86 |
| Winnebago | 05-17201-00000 | 1 | 2 | 578 | 14 | 28 | 247 | 290 |
| Woodford | 05-17203-00000 | 1 | 2 | 152 | 16 | 32 | 28 | 77 |
| STATEWIDE TOTAL | | 102 | 204 | 31,648 | 1,579 | 3,160 | 11,110 | 15,942 |

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**Section 320.EXHIBIT B Radiation Detection Equipment**

A) Operational

1) Types of radiation detection kits for operations:

a) The radiation detection kit (CD V-777-1) is the basic operation kit. It consists of the following items in the quantities indicated:

(1) CD V-715 Survey Meter (0-500 r/hr)
(1) CD V-700 Survey Meter (0-50 mr/hr)
(1) CD V-750 dosimeter charger
(6) CD V-742 dosimeter (0-200 r)
(6) Batteries
(6) Exposure Record Forms

b) The items and corresponding quantities of instruments within the CD V-777-2 kits are included are listed as follows:

(1) CD V-717 Survey Meter (0-500 r)
(1) CD V-750 dosimeter charger
(6) CD V-742 dosimeter (0-200 r)
(2) batteries
(6) Exposure Record forms

B) Training

1) The radiation detection training kit (CD V-777-T) consists of the following items and amounts:

(1) CD V-715 Survey meter (0-500 r/hr)

(1) CD V-700 Survey meter (0-50 mr/hr)

(1) CD V-750 dosimeter charger

(1) CD V-138 dosimeter (0-200 mr)

(1) CD V-742 dosimeter (0-200 r)

(6) Batteries

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

(2) Exposure record forms

2) The training source set (CD V-778) consists of the following items and amounts:

(6) CD V-784 radioactive source capsules

(1) CD V-792 large lead container

(1) CD V-791 small lead container

(1) CD V-788 long-handled tongs

(2) locks for large lead container

(1) key for locks

(6) Danger Radiation Area Signs

(2) Caution Radiation Area Signs

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED REPEALER

**Section 320.EXHIBIT C Leak Testing Procedures**

1. Equipment Used

   a. Long nosed pliers

   b. Long handled tongs

   c. CD V-700 Survey Meter

   d. CD V-138 Dosimeter, to be worn by individual while performing the test.

   e. Key for two locks on large lead pig.

   f. One roll of paper towels

   g. Filter paper and cotton swabs (supplied by IESDA)

   h. Methanol technical, wood alcohol (supplied by IESDA)

2. Check to see that the large pig has two radioactive yellow II shipping labels and has the following information: contents, (CS137), number of curies (.120) and transport index (mR/Hr reading at three feet).

3. Unlock large pig and check to see that each lead pig bears a label including the following information: radioisotope, number of sealed sources, total activity of the sources and the date of encapsulation.

4. Turn on the CD V-700 Survey Meter, X1 scale, 20 feet from large pig and let it warm up.

5. Remove small pig from large pig, set on table 20 feet from large pig and the CD V-700 Survey Meter.

6. Moisten filter paper with methanol and wipe inside of large pig.

7. Using the CD V-700 Survey Meter with the shield open, the earphone attached, the range switch set at the scale (X1) and the window as close as possible to, but not in contact, with the filter paper; thoroughly monitor the filter paper. Any

average reading of the CD V-700 twice above normal background must be attributed to leakage and/or contamination.

8. If the wipe test on the large pig shows no evidence of contamination, continue the leak test by covering the work area with several thicknesses of paper towel. Using the tong or pliers, remove one of the sealed sources from the small pig and wipe it with moistened cotton swab. Sufficient pressure should be applied to effect a thorough removal of any contamination. Place the source in the large pig.

9. As the test for each capsule is completed, place that capsule in the large pig until all capsules have been tested.

10. After leak testing each source, wipe test the small pig in the same manner as the large one.

11. If the leak test results are negative, return all sources to the small pig and return the set to its normal storage location.

12. Wipes and cotton swabs of all tests shall be placed in individual plastic bags, and mailed to the IESDA M & C Shop for more accurate measurement of the contamination.

13. Collect the paper used to cover the test area, and any other waste material that has accumulated, and dispose of it in a normal trash if it is not contaminated. If it is contaminated, place in a plastic bag. Contact the appropriate IESDA Regional Coordinator who shall contact the IESDA M & C Shop Manager. The IESDA M & C Shop Manager shall arrange to pick up the contaminated items for proper disposal.

14. Monitor the area, hands and equipment, at the conclusion of the test.

15. Record your wipe test results. The average CD V-700 will give a reading of 15 cpm over background for .005 microcuries.

16. Replacement of rings and tags will be done by the IESDA M & C Shop personnel only.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Administrative Hearings

2) Code Citation: 32 Ill. Adm. Code 200

3)

| Section Numbers: | Proposed Action: |
|---|---|
| 200.10 | Amendment |
| 200.50 | Amendment |

4) Statutory Authority: Implementing and authorized by Section 18 of the Radiation Protection Act of 1990 [420 ILCS 40/18]

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking amends where hearing documents are to be sent during the hearing process and clarifies when service occurs for orders and notices sent by the Agency.

6) Any published studies or reports, along with the sources of underlying data, that were used when composing 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: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

12) Time, Place and Manner in which interested persons may comment on this proposed Rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. The Agency will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Traci Burton
Paralegal Assistant

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois 62704

217/785-9860 (voice)
217/782-6133 (TDD)

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities or not for profit corporations affected: This rulemaking will have no impact on any small businesses, small municipalities or not for profit corporations unless they have been in violation of the Agency's statutes and regulations and an order is being served upon them.

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 2012

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 32: ENERGY
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER a: ADMINISTRATIVE HEARING RULES

PART 200
ADMINISTRATIVE HEARINGS

Section
200.10 Scope and Nature of Rules
200.20 Appearance – Right to Counsel
200.30 Parties
200.40 Form of Papers
200.50 Notice, Service and Proof of Service
200.60 Preliminary Order and Notice of Opportunity for Hearing
200.70 Right to Hearing
200.80 Motions
200.90 Continuances
200.100 Hearing Officer
200.110 Ex Parte Consultation
200.120 Informal Conferences
200.130 Conduct of Hearing
200.140 Amendments
200.150 Burden of Proof
200.160 Witnesses at Hearings
200.170 Evidence at Hearings
200.180 Cross Examination
200.190 Official Notice
200.200 Default
200.210 Hearing Record
200.220 Hearing Officer's Report
200.230 Final Decision of the Director

AUTHORITY: Implementing Section 18 of the Radiation Protection Act of 1990 [420 ILCS 40/18].

SOURCE: Filed April 20, 1974 by the Department of Public Health; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; amended at 7 Ill. Reg. 9306, effective July 22, 1983; codified at 7 Ill. Reg. 16404; amended at 10 Ill. Reg. 17200, effective September 25, 1986; amended at 26 Ill. Reg. 17739, effective December 2, 2002;

recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 33 Ill. Reg. 14137, effective September 28, 2009; amended at 36 Ill. Reg. _____, effective _____.

**Section 200.10 Scope and Nature of Rules**

a) Authority and Scope

1) Authority. This Part is promulgated pursuant to Section 5-10(a) of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/5-10].

2) Scope. This Part shall govern the proceedings of any adjudicatory administrative hearing of the Illinois Emergency Management Agency (Agency), except as otherwise specifically provided by statute or regulation.

b) Communications to the Agency. All communications to the Agency concerning administrative hearings shall be addressed to the Legal Office~~Director~~ at Illinois Emergency Management Agency, 1035 Outer Park Drive,~~2200 S. Dirksen Parkway,~~ Springfield, Illinois 6270~~62703~~, unless otherwise directed.

c) Construction of Rules. This Part shall not be construed to abrogate, modify or limit any rights, privileges or immunities granted or protected by the Constitution or laws of the United States or the State of Illinois. In case of any conflict between this Part and the IAPA or a licensing statute, the procedures of the IAPA or licensing statute shall control.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 200.50 Notice, Service and Proof of Service**

a) The hearing officer and all parties to the proceedings shall be served all pleadings, motions, notices and other documents filed by any party. Proof of ~~such~~ service on all parties shall be filed with the hearing officer.

b) Any Order or Notice issued by the Agency shall either be served personally or by registered or certified mail on the Respondent.

c) All other pleadings and other documents shall be served personally or by first

class United States mail properly addressed, with postage prepaid, to each party to the proceeding.

d) When any party or parties have appeared by attorney, service upon the attorney shall be deemed service upon the party or parties.

e) Proof of service of any paper shall be by certificate of attorney, affidavit or acknowledgement, or certified or registered mail receipt.

f) Wherever notice or notification is indicated or required, it shall be effective upon the date of mailing to the party's ~~business address, residence or~~ last address on file with the Agency. Orders and notices sent by certified or registered mail to the party's last address on file with the Agency that have been returned to the Agency as unclaimed or refused by the addressee shall be considered served.

g) In addition to the methods provided for in this Part, a Respondent may be served in any manner permitted by law.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Credit Union Act

2) Code Citation: 38 Ill. Adm. Code 190

3)

| Section Numbers: | Proposed Action: |
|---|---|
| 190.2 | Amendment |
| 190.5 | Amendment |
| 190.15 | New Section |
| 190.20 | Amendment |
| 190.30 | Amendment |
| 190.40 | Amendment |
| 190.50 | Amendment |
| 190.60 | Amendment |
| 190.70 | Amendment |
| 190.90 | Amendment |
| 190.120 | Amendment |
| 190.130 | Amendment |
| 190.140 | Amendment |
| 190.150 | Amendment |
| 190.160 | Amendment |
| 190.165 | Amendment |
| 190.180 | Amendment |
| 190.185 | New Section |
| 190.190 | Amendment |
| 190.200 | Amendment |
| 190.220 | Amendment |
| 190.500 | Amendment |
| 190.505 | Amendment |
| 190.510 | Amendment |
| 190.555 | Amendment |
| 190.570 | Amendment |
| 190.575 | Amendment |

4) Statutory Authority: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305]

5) A Complete Description of the Subjects and Issues Involved: These amendments will implement PA 97-2101, which makes certain definitional changes to clarify role of the Director and Secretary and expands ability of the Department to assess civil penalties for

unsafe/unsound business practices and other regulatory violations. Section 190.50 will be amended to establish fee increases that are needed to help cover agency costs for special examinations and investigations. Section 190.160 will be revised to increase the statutory lending limits for consumer loans. Section 190.165 has also been revised to bring it into substantial similarity with the National Credit Union Administration's (NCUA's) member business lending rule (12 CFR 723). Additionally, we are increasing the related compliance fees, making them a bit more punitive, in order to assure that Credit Unions comply with this Part and the Act.

The Department has also taken this opportunity to make numerous non-substantive changes to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Banking.

6) Any published studies or reports, along with the sources of underlying data, that were used when compiling this rulemaking: None

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

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

9) Does this rulemaking contain incorporations by reference? Yes

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

11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786

217/785-0813
Fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

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: Please review the proposed amendments to 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:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 190
ILLINOIS CREDIT UNION ACT

SUBPART A: GENERAL PROVISIONS

Section
190.2 Definitions
190.5 Credit Union Service Organizations
190.10 Field of Membership Procedures
190.15 Civil Penalty
190.20 Hearings
190.30 Cease and Desist Procedures
190.40 Removal or Suspension Procedures
190.50 Fees
190.60 General Accounting Procedures
190.70 Loan Loss Accounting Procedures
190.80 Use of Electronic Data Processing
190.90 Fixed Asset Investments
190.100 Classes of Share and Special Purpose Share Accounts
190.110 Share Drafts
190.120 Bond and Insurance Requirements
190.130 Verification of Share and Loan Accounts
190.140 Real Estate Lending
190.150 Reverse Mortgage
190.160 Lending Limits – Consumer Loans
190.165 Business Loans
190.170 Group Purchasing
190.180 Investments
190.185 Investment in "Other Financial Institutions"
190.190 Liquidation
190.200 Conversion of Charter
190.210 Reimbursement for Financial Records
190.220 Registration of Out of State Credit Unions

SUBPART B: HIGH RISK HOME LOANS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section
190.500 Definitions
190.505 Applicability of Rule
190.510 Good Faith Requirements
190.515 Fraudulent or Deceptive Practices
190.520 Prohibited Refinances
190.525 Negative Amortization
190.530 Negative Equity
190.535 Balloon Payments
190.540 Financing of Certain Points and Fees
190.545 Financing of Single Premium Insurance Products
190.550 Lending Without Due Regard to Ability to Repay
190.555 Verification of Ability to Repay
190.560 Payments to Contractors
190.565 Counseling Prior to Perfecting Foreclosure
190.570 Mortgage Awareness Program
190.575 Offer of Mortgage Awareness Program
190.580 Third Party Review

SUBPART C: PAYDAY LOANS

Section
190.600 Definitions
190.601 Purpose and Scope
190.605 Applicability of Rule
190.610 Issuance of Payday Loans by Credit Unions

190.APPENDIX A Estimated Monthly Income and Expenses Worksheet
190.APPENDIX B Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305].

SOURCE: Adopted at 4 Ill. Reg. 20, p. 17, effective May 7, 1980; amended at 6 Ill. Reg. 11154, effective September 7, 1982; amended and codified at 7 Ill. Reg. 14973, effective October 26, 1983; emergency amendment at 9 Ill. Reg. 14378, effective September 11, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 16231, effective October 10, 1985; amended at 10 Ill. Reg. 14667, effective August 27, 1986; amended at 12 Ill. Reg. 10464, effective June 7, 1988; amended at 12 Ill. Reg. 17383, effective October 24, 1988; amended at 13 Ill. Reg. 3793, effective March 10, 1989; amended at 13 Ill. Reg. 15998, effective October 2, 1989; emergency

amendment at 16 Ill. Reg. 12781, effective July 29, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17073, effective October 26, 1992; amended at 19 Ill. Reg. 2826, effective February 24, 1995; amended at 20 Ill. Reg. 5803, effective April 8, 1996; emergency amendment at 20 Ill. Reg. 13093, effective September 27, 1996, for a maximum of 150 days; emergency expired February 17, 1997; amended at 22 Ill. Reg. 17317, effective September 15, 1998; emergency amendment at 23 Ill. Reg. 3086, effective February 23, 1999, for a maximum of 150 days; emergency expired July 22, 1999; amended at 23 Ill. Reg. 12614, effective October 4, 1999; amended at 23 Ill. Reg. 14031, effective November 12, 1999; amended at 25 Ill. Reg. 6244, effective May 17, 2001; amended at 25 Ill. Reg. 13278, effective October 19, 2001; amended at 26 Ill. Reg. 17999, effective December 9, 2002; amended at 28 Ill. Reg. 11699, effective July 29, 2004; amended at 29 Ill. Reg. 10579, effective July 8, 2005; amended at 30 Ill. Reg. 18919, effective December 4, 2006; amended at 32 Ill. Reg. 1377, effective January 16, 2008; amended at 34 Ill. Reg. 10500, effective July 12, 2010; amended at 36 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

**Section 190.2 Definitions**

For purposes of the Illinois Credit Union Act and this Part, the words and phrases defined in this Section shall have the meanings ascribed to them unless the context requires otherwise.

"Act" means the Illinois Credit Union Act [205 ILCS 305].

"Credit union" means a credit union chartered under the Illinois Credit Union Act, or, as the context permits, under the Federal Credit Union Act or the laws of any state.

"Department" means the Illinois Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Financial Institutions. As provided in Section 8(1) of the Act, the Director shall oversee the functions of the Division and report to the Secretary with respect to the Director's exercise of any of the rights, powers and duties vested by law in the Secretary under the Act or this Part.

"Division" means the Department of Financial and Professional Regulation-Division of Financial Institutions.

"GAAP" or "generally accepted accounting principles" means U.S. Generally Accepted Principles promulgated by the Financial Accouning Standards Board (see http://www.fasb.org).

"Net worth" means retained earnings, as defined under GAAP~~generally accepted accounting principles (Wiley GAAP, published by John Wiley & Sons, 605 Third Avenue, New York NY 110158-0012, 2002, no later editions or amendments included)~~, and secondary capital.

"Retained earnings" includes undivided earnings, regular reserve, other reserves, and any other appropriations designated by management or regulatory authorities.

"Secondary capital" means a secondary capital account or other form of non-share account, including without limitation a debt instrument, subject to the following conditions:

The maturity or the account shall not be less than three years and the account shall not be redeemable prior to maturity or the expiration of a minimum withdrawal notice period of three years.

The account shall not be insured by the National Credit Union Share Insurance Fund or any governmental or private entity.

The account holder's claim against the credit union must be subordinate to all other claims, including shareholders, creditors and the National Credit Union Share Insurance Fund.

Funds in the account, including interest accrued and paid into the account, must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings. In lieu of being paid into the account, interest may be paid directly to the account holder or into a separate account from which the account holder may make withdrawals. Losses shall be distributed pro-rata among all secondary capital accounts held by the credit union at the time losses are realized.

The account may not be pledged or provided by the account

holder as security on a loan or obligation with the credit union or any other party.

In the event of liquidation of the credit union, the accounts will, to the extent they are not needed to cover losses at the time of liquidation, be paid out to the account holder.

"Paid-in and unimpaired capital" or "unimpaired capital" means shares as defined in Section 1.1 of the ~~Illinois Credit Union~~ Act.

"Person" or "persons" means individuals and bodies politic and corporate, including without limitation corporations, limited liability companies, general partnerships, limited partnerships and joint ventures; unless, from the context and facts, the intention is plain to apply only to individuals. Persons who reside in or live in a geographical area include non-natural persons located within the geographical area.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation or a person authorized by the Secretary, the Act or this Part to act in the Secretary's stead. As provided in Section 8(l) of the Act, all references in the Act or this Part to the Secretary shall be deemed to include the Director, as a person authorized by the Secretary or the Act to assume responsibility for the oversight of the functions of the Department relating to the regulatory supervision of credit unions under the Act and this Part.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any of the several territories and possessions of the United States. When capitalized, the term "State" generally means the State of Illinois.

"Surplus" means undivided earnings.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.5 Credit Union Service Organizations**

a) The provisions of this Section apply to credit unions investing in or lending to a Credit Union Service Organization (CUSO), which is a credit union organization as defined in Section 1.1 of the ~~Illinois Credit Union~~ Act ~~[205 ILCS 305/1.1]~~.

b) Prior to the initial investment in or loan to a CUSO, the records of the credit union shall contain the following information:

1) The name and location of the CUSO.

2) Services provided by the CUSO.

3) The names of the officers, employees and agents of the CUSO and their relationship to the credit union and the credit union's directors, officers, staff and members.

4) The form of organization under which the CUSO operates, including but not limited to corporation, limited partnership, general partnership, joint venture, limited liability company, or limited partnership.

5) The most recent financial statements of the credit union and the CUSO.

6) The customer base served by the CUSO.

7) The credit union's investments in or loans to other CUSOs.

8) The credit union's indebtedness to any other credit unions, corporations, financial institutions, credit union organizations, or other organizations.

c) A credit union and a CUSO must be operated in a manner that demonstrates to the public the separate corporate existence of the credit union and the CUSO.

1) Good business practices dictate that each must operate so that:

A) Its respective business transactions, accounts, and records are not intermingled;

B) Each observes the formalities of its separate corporate procedures;

C) Each is adequately financed as a separate unit in the light of normal obligations reasonably foreseeable in a business of its size and character;

D) Each is held out to the public as a separate enterprise;

E) The credit union does not dominate the CUSO to the extent that the CUSO is treated as a department of the credit union; and

F) Unless the credit union has guaranteed a loan obtained by the CUSO, all borrowings by the CUSO indicate that the credit union is not liable.

2) Prior to a credit union investing in or making a loan to a CUSO, the credit union must obtain a written legal opinion as to whether the CUSO is established in a manner that will limit potential exposure of the credit union to no more than the loss of funds invested in, or loaned to, the CUSO. In addition, if a CUSO in which a credit union has made an investment or loan plans to change its form of organization under subsection (b)(4)~~ of this Section~~, the credit union must obtain a prior written legal opinion that the CUSO will remain established in a manner that will limit potential exposure of the credit union to no more than the loss of funds invested in, or loaned to, the CUSO. The legal opinion must address factors that have led courts to "pierce the corporate veil", such as inadequate capitalization, lack of separate corporate identity, common boards of directors and employees, control of one entity over another, and lack of separate books and records. The legal opinion may be provided by independent legal counsel of the credit union.

d) Additional Requirements~~requirements.~~

1) The CUSO must comply with the definition of a credit union organization as defined by Section 1.1 of the ~~Illinois Credit Union~~ Act~~ [205 ILCS 305/1.1]~~.

2) The amount a credit union may invest in and/or loan to a CUSO is subject to Board of Director approval and the following limitations:

A) Any loan to the CUSO does not cause aggregate loans to credit union organizations, per Section 51(4) of the ~~Illinois Credit Union~~ Act~~ [205 ILCS 305/51(4)]~~, to exceed the greater of 3% of the paid-in and unimpaired capital and surplus of the credit union or the amount authorized for federal credit unions.

B) Any investment in the CUSO does not cause the aggregate investment in CUSOs to exceed the greater of 3% of the paid-in and unimpaired capital and surplus of the credit union in accordance with the statutory limitation on investments in CUSOs or the amount authorized for federal credit unions.

C) The limit on loans to CUSOs is independent and separate from the limit on investments in CUSOs.

D) "Paid-in and unimpaired capital and surplus" means shares, as defined in Section 1.1 of the ~~Illinois Credit Union~~ Act ~~[205 ILCS 305/1.1]~~, and undivided earnings.

E) If the investment limits described in this subsection (d)(2) are reached or exceeded because of the profitability of the CUSO and the related GAAP valuation of the investment under the equity method, without an additional cash outlay by the credit union, divestiture is not required. A credit union may continue to invest up to the authorized amount without regard to the increase in the GAAP valuation resulting from a CUSO's profitability.

3) All dealings between the credit union's directors, officers, employees, their family members or any corporation, partnership, proprietorship or association in which these individuals hold interest and the CUSO are disclosed. Any agreements between these individuals, businesses or associations and the CUSO must be structured to project economic benefit, increased efficiencies and/or cost effective service to the credit union and must not project a detrimental effect on the earnings or sound operation of the credit union. For purposes of this subsection (d)(3) "family member" means a spouse or a child, parent, grandchild, grandparent, brother or sister, or the spouse of any such individual.

4) All agreements between the credit union and the CUSO must be structured to project economic benefit, increased efficiencies and/or cost effective service to the credit union and must not project a detrimental effect on the earnings or sound operation of the credit union.

e) Prior to investing in or lending to the CUSO, the credit union must enter into a

written agreement with the CUSO.

1) The written agreement must contain clauses that state the CUSO will:

A) Provide the Department with complete access to any books and records of the CUSO, with the costs of examining these records borne by the credit union served in accordance with the per diem rate set out in Section 12 of the Act~~ [205 ILCS 305/12]~~.

B) Follow GAAP~~Generally Accepted Accounting Principles (Wiley GAAP, published by John Wiley & Sons, 605 Third Avenue, New York, NY 10158-0012, 1997 edition, no subsequent dates or editions)~~.

C) Provide the credit union with the financial statements of the CUSO on at least a quarterly basis and Certified Public Accountant (CPA) audited financial statements on an annual basis.

2) The agreement must also contain a clause reciting that the parties agree to terminate their contractual relationship:

A) Upon 90 days written notice to the parties by the Secretary~~Director~~ that the safety and soundness of the credit union is threatened pursuant to the Department's cease and desist and suspension authority as outlined in Sections~~Section~~ 8(4), 8(5) and 61 of the Act~~ [205 ILCS 305/8(4) and (5) and 61]~~.

B) Immediately upon the parties' receipt of written notice from the Secretary when~~Director where~~ the Secretary~~Director~~ reasonably concludes, based upon specific facts set forth in the notice to the parties, that the credit union will suffer immediate, substantial and irreparable injury or loss if it remains a party to the service contract.

3) The termination of the underlying agreement between the CUSO and the credit union shall in no way operate to relieve the CUSO of repaying any investment, indebtedness or other obligation due and owing the credit union at the time of termination. Any CUSO that was in existence prior to the effective date of this rule and that was legally operating in a manner

that, although inconsistent with this rule, was not in contravention of the ~~Illinois Credit Union~~ Act, may continue its operation until August 27, 1987~~one year from the effective date of this rule~~.

f) In recording all transactions with the CUSO, GAAP~~Generally Accepted Accounting Principles (see subsection (e)(1)(B))~~ shall be followed by the credit union.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.15 Civil Penalty**

As provided in Section 8(6) of the Act, the amount of time specified by the Department, at the Secretary's or his or her designee's discretion, within which the credit union must remediate the specific violations shall depend on the nature and extent of the remedial action to be taken. All remedial actions must be performed to the satisfaction of the Secretary or his or her designee. Additional time for remediation may be granted at the Secretary's or his or her designee's discretion for good cause upon written request made in good faith by the credit union.

(Source: Added at 36 Ill. Reg. _____, effective _____)

**Section 190.20 Hearings**

a) Upon written request, made within 90 days after any administrative action or regulatory decision made pursuant to the Act, the Secretary~~Director~~ will authorize a formal hearing to review the propriety of administrative actions and regulatory decisions by issuing a notice of hearing.

b) The notice shall be served personally or by certified or registered mail or as otherwise provided by law upon the parties or their agents appointed to receive service of process and shall include the following:

1) A statement of the time, place~~,~~ and nature of the hearing.

2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

3) A reference to the particular Sections of the substantive and procedural statutes and rules involved.

4) Except when~~where~~ a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or other reference number.

5) The names and mailing addresses of the hearing officer, all parties~~,~~ and all other persons to whom the agency gives notice of the hearing, unless otherwise confidential by law.

c) An opportunity shall be afforded all parties to be represented by legal counsel and to respond and present evidence and argument.

d) Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order~~,~~ or default.

e) Hearing Officers~~.~~

1) The hearing officer designated by the Secretary~~Director~~ shall be an attorney licensed to practice in Illinois and shall have the authority to:

A) examine or permit examination of any witness under oath;

B) determine the order of appearance of all parties;

C) receive all evidence and testimony and rule on its admissibility as well as require the production of any relevant document or witness;

D) rule on objections to evidence; and

E) make a written report with recommendations to the Secretary that~~Director which~~ shall include findings of fact and conclusions of law with respect to the claim. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

2) Petitioner or respondent~~Respondent~~ may petition the Secretary~~Director~~ to disqualify the appointed hearing officer for bias or conflict of interest by presenting the Secretary~~Director~~ with convincing and compelling evidence of the hearing officer's bias or conflict of interest. An adverse ruling shall not constitute bias or conflict of interest.

f) General Provisions~~.~~

1) When a hearing is scheduled pursuant to this Part, the petitioner or his or her attorney shall be notified by certified or registered mail, return receipt requested, at least 10~~ten~~ days prior to the date set for the hearing. Delivery of notice to the United States Postal Service shall constitute delivery.

2) A continuance shall be granted for good cause by the hearing officer. The continuance shall be:

A) in writing, in duplicate and signed by the petitioner or his or her attorney and shall state the reasons for the request;

B) delivered to the hearing officer at least three days prior to the scheduled hearing.

3) For the purposes of subsection (f)(2), good cause shall require the petitioner~~Petitioner~~ to demonstrate real and compelling need for additional time. It shall include but not be limited to illness, service in the armed forces, etc.

4) Failure to attend a hearing shall result in the dismissal of the party's petition and the assessment of the costs for such a hearing upon the party. A person whose petition has been so dismissed shall not resubmit until the assessed costs have been paid.

5) Any party to a proceeding may order a court reporter to transcribe the proceeding. If the petitioner makes the request, he or she shall pay all costs associated with the transcript. If the court reporter is ordered by the hearing officer, any party may purchase a transcript.

6) The Secretary~~Director~~ shall assess all costs and attorneys' fees against any party who has unreasonably delayed a proceeding or has filed a claim in bad faith. "Unreasonable delay of a proceeding" shall be determined to exist upon a preponderance of evidence indicating that the petitioner is purposely delaying the hearing either actively or through inattention to detail. A determination of "filing a claim in bad faith" requires a

preponderance of evidence that the hearing petition was filed merely to stay Division action with no intent for expeditious resolution of the contested issue.

g) Conduct of Hearings~~.~~

1) The hearing officer shall open the hearing by presenting for the record his or her letter of authorization from the Secretary~~Director~~.

2) The rules of evidence and privilege as applied in civil cases in Illinois Circuit Courts shall be followed. The hearing officer may admit evidence not admissible under those rules if the~~such~~ evidence could be relevant to the case. Irrelevant, immaterial~~,~~ or unduly repetitious evidence shall be excluded. Evidence not admissible under those rules of evidence may be admitted (except when~~where~~ precluded by statute) if it is a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.

3) The hearing officer may, on his or her own motion or the motion of one of the parties, take notice of matters of which Illinois Circuit Courts may take judicial notice. *Notice may be taken of generally recognized technical or scientific facts within the* Division's *specialized knowledge if parties are notified, before or during the hearing, and if afforded an opportunity to contest the material so noticed* [5 ILCS 100/10-40(c)]. The burden of opposing any material admitted upon notice shall be upon the party so opposing.

4) No Division employee or hearing officer shall, after notice of a hearing, communicate with any party or his or her attorney in connection with any issue in the hearing except upon notice and opportunity for all parties to participate.

5) The record of any hearing shall include:

A) all pleadings, and evidence received whether admitted or excluded;

B) a statement of all matters officially noticed;

C) all offers of proof, objections, and rulings on objections~~thereon~~;

D) all proposed findings and exceptions;

E) any decision, opinion~~,~~ or report by the hearing officer;

F) any communication prohibited by this Part, although the communication shall not form the basis for any finding of fact;

G) any evidence excluded by the hearing officer, even though that~~such~~ evidence is not used in the determination of the claim;

H) a proceeding transcript recorded by any means that will adequately insure the preservation of the testimony.

6) Within 90 days after the hearing or the receipt of all necessary documents, the hearing officer shall report to the Secretary~~Director~~, pursuant to 38 Ill. Adm. Code 190.20.

7) Within 30 days after receiving the report of the hearing officer, the Secretary~~Director~~ shall issue a decision, which shall be served on the claimant and other parties personally or by registered or certified mail, return receipt requested. Copies of the hearing officer's report to the Secretary~~Director~~ are available upon written request.

h) Petition to Reconsider~~.~~

1) Within 30 days after receipt of the Secretary's~~Director's~~ decision, any party may petition the Secretary~~Director~~ for reconsideration based upon a verified petition. An affidavit shall accompany the petition stating that the decision was against the manifest weight of the evidence, was contrary to law, or was arbitrary or capricious, and is affected by newly discovered evidence not in existence at the time of the initial hearing or that~~which~~ could not have been discovered using due diligence at that time.

2) The Secretary~~Director~~ shall determine within 15 days whether to reconsider the case. If reconsideration is allowed, a hearing shall be held

pursuant to this Part and shall be limited to the issues raised by the petition and affidavit. If reconsideration is denied, the Secretary's~~Director's~~ initial decision shall be the final administrative decision of the Division.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.30 Cease and Desist Procedures**

a) *The Secretary~~Director~~ shall issue a cease and desist order to any credit union which either knowingly~~willfully~~ violates or the Secretary~~Director~~ has reasonable cause to believe is about to violate the Act or rules or any condition imposed in writing by the* Division *or commits random violations which jeopardize the safety and soundness of the credit union.* The~~Such~~ Order shall be sent to the Chairman of the credit union by certified mail, with a copy to each member of the board ~~Board~~ of directors~~Directors~~.

b) Within 10 days after~~of~~ the receipt of the Order, the credit union shall respond in writing to request a review of the~~such~~ exceptions. If no response is received, or the Order is agreed to in writing, the credit union shall be deemed to have consented to the issuance of the cease and desist order.

c) If a review of the Order is requested in writing by the credit union and after ~~such~~ review of the circumstances and record by the Secretary~~Director~~ or his or her designated agent, the Secretary~~Director~~ finds a circumstance described in Section 8(4) of the ~~Illinois Credit Union~~ Act ~~[205 ILCS 305/8(4)]~~, then the Secretary~~Director~~ shall issue or extend, as appropriate, an order to cease and desist to the credit union from any such practice or violation. The Order~~Such order~~ shall require the credit union and its directors, officers, committee members, employees and agents to cease and desist from the~~such~~ violations and to take affirmative action to correct the conditions resulting from any ~~such~~ violation. If the credit union has specific grounds for believing that the evidence upon which the Order~~order~~ is based is not factual then the credit union may request a formal hearing under Section~~38 Ill. Adm. Code~~ 190.20.

d) A cease and desist order shall become effective upon receipt by the credit union and shall remain effective until it is terminated by action of the Secretary~~Director~~ or a reviewing court. Delivery to the United States Postal Service shall be presumed to constitute delivery to the credit union.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.40 Removal or Suspension Procedures**

a) Under circumstances ~~as~~ described in Section 8(5) of the ~~Illinois Credit Union~~ Act ~~[205 ILCS 305/8(5)]~~, the Secretary~~Director~~ or his or her agent shall issue and serve upon a director, officer or committee member a written Order of Suspension to remove the named persons from office and/or to prohibit their further participation in any manner in the conduct of the affairs of the~~such~~ credit union.

b) The~~Such~~ Order, which shall contain a statement of the facts constituting the grounds for the Order~~therefore~~, shall be sent by certified mail to the Chairman, with a copy to each member of the affected credit union's board ~~Board~~ of directors~~Directors~~ and the President, if not a director, and shall become effective upon service and, unless stayed by a court, shall remain in effect pending the completion of administrative procedings as outlined in this Part~~therein~~.

c) Within 15 days after~~of~~ the mailing of the Order, the named persons shall respond in writing to request an administrative ~~Administrative~~ review of the Order. If no response is received or the Order is agreed to in writing, the persons shall be deemed to have consented to the issuance of an Order of Suspension, thereby prohibiting the named individuals from further participation in any manner in the conduct of affairs of any credit union chartered under the Act. The~~Such~~ order shall remain effective until it is terminated by action of the Secretary~~Director~~ or reviewing court.

d) Within 10 days after~~of~~ receipt of the conclusions of the administrative review by the Secretary~~Director~~, if the persons named have specific grounds for believing that the evidence upon which the Order~~order~~ is based is not factual, then the persons~~person(s)~~ may request a formal hearing under Section~~38 Ill. Adm. Code~~ 190.20.

e) In the event that all of the directors of a credit union are suspended or removed, the Secretary~~Director~~, under authority of Section 61(4) of the ~~Illinois Credit Union~~ Act ~~[205 ILCS 305/61(4)]~~, shall appoint a Manager-Trustee to manage the affairs of the credit union until ~~such time as~~ the Secretary~~Director~~ appoints interim successors to the directors to serve until the next annual members'~~members~~ meeting.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.50 Fees**

The schedule of annual regulatory fees is contained in Section 12 of the ~~Illinois Credit Union~~ Act. In addition, pursuant to Sections 8 and 9 of the ~~Illinois Credit Union~~ Act, the Secretary~~Director~~ prescribes the following fees:

a) Service Fee Charges:

1) Investigation of application for permission to organize a new credit union ..... $250

2) Preparation and/or approval of an amendment to the Articles of Incorporation or to the By-Laws:

Other than to add or convert to a community common bond:

Credit unions with assets less than $5 million..... $10

Credit unions with assets of $5 million and less than $30 million..... $15

Credit unions with assets of $30 million and greater..... $25

To add or convert to a community common bond (irrespective of credit union asset size) ..... $250

3) Preparation and/or approval of standard revised set of By-Laws..... $50

4) Preparation and/or approval of non-standard revised set of By-Laws (excluding individual or minor revisions)..... $250

5) Photocopy of any documents per page ..... $1

6) Late filing of any report for each day late (excluding 5300 Reports):

Credit unions with assets less than $5 million ..... $15

Credit unions with assets of $5 million and less than $30 million ..... $25

Credit unions with assets of $30 million and greater ..... $50

7) Late filing of any 5300 Report for any credit union for each day late:

Credit unions with assets less than $5 million..... $25

Credit unions with assets of $5 million and greater ..... $50

Credit unions with assets of $50 million and greater ..... $100

8) Preparation of a list of credit unions by name and address..... $100

9) Credit Union Act, Rules & Regulations and standard By-Laws in hardback binder ..... $200

Credit Union Act (no binder) ..... $50

Rules & Regulations (no binder)..... $50

Standard By-Laws (no binder) ..... $50

Hardback Binder..... $50

b) Mergers, Conversions, Investigations, Hearings and Failure to Maintain Books:

1) Supervision of merger or conversion, including completion of transfer of accounting records of merging credit union to surviving credit union's records (excluding involuntary or unsolicited mergers for which there shall be no fee) ..... $250

2) Special investigation or examination of a credit union when, in the opinion of the Secretary~~Director~~, there is reasonable cause to believe the credit union is engaged or has engaged, or is about to engage in an unsafe or unsound practice, or is violating or has violated a law, rule or regulation or any condition imposed in writing by the Division, or to enable the Secretary~~Director~~ to determine the safety of a credit union's operation or its solvency.

Charge per examiner per day or part thereof assessed pursuant to the following scale based on total assets of credit union:*

$5,000,000 or less ..... $190

Greater than $5,000,000 - $100,000,000 ..... $245

Greater than $100,000,000..... $380
~~..... *$190~~

* Provided that the~~such~~ charges may not exceed the annual regulatory fee provided in Section 12 of the ~~Illinois Credit Union~~ Act for an annual examination.

3) The cost of any formal hearing requested by a credit union in accordance with Section~~procedures in 38 Ill. Adm. Code~~ 190.20 will be assessed by the Secretary~~Director~~.

4) A credit union failing to have its books and records available and currently posted* when contacted by the Division's examiner for examination, resulting in

the Division's inability to conduct the examination, will be assessed a fee of:

| | |
|---|---|
| Credit unions with assets of less than $1 million ..... | $65~~$50~~ |
| Credit unions with assets of $1 million and less than $5 million..... | $130~~$100~~ |
| Credit unions with assets of $5 million and less than $10 million..... | $325~~$250~~ |
| Credit unions with assets of $10 million and less than $30 million..... | $650~~$500~~ |
| Credit unions with assets of $30 million and less than $100 million..... | $1,300 ~~$1,000~~ |
| Credit unions with assets of $100 million and less than $500 million..... | $3,250 ~~$2,500~~ |
| Credit unions with assets of $500 million and greater..... | $6,500 ~~$5,000~~ |

* Currently posted means that the accounts are posted by the 15th of the following month.

The fee authorized under this subsection (b)(4) shall not be assessed if an immaterial number of accounts is not posted by the 15th day of the following month, as determined under GAAP~~generally accepted accounting principles (Wiley GAAP, published by John Wiley & Sons, 605 Third Avenue, New York NY 110158-0012, 2002, no later editions or amendments included)~~, or more frequently than annually.

c) Payment:

1) A credit union shall pay any fee listed in subsections (a) and (b) of this Section no later then 20 days after receipt of an invoice from the Division.

2) Individuals, partnerships or other corporations shall pay in advance any fee to be charged for the preparation of the work requested. The Division, upon request, shall provide an estimated cost of the work requested.

3) Fees shall be waived by the Secretary~~Director~~ for forms and copies supplied to another agency of government or when~~where~~ the fee was not imposed according to the Act or this Part. Fees listed in subsections (a) and (b)~~ of this Section~~ may be waived, in whole or in part, by the Secretary~~Director~~, upon a showing by the credit union satisfactory to the Secretary~~Director~~ that the imposition of the fee in the particular case would be inequitable or create a hardship for the credit union.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.60 General Accounting Procedures**

a) All credit unions will maintain their books and records in accordance with GAAP~~generally accepted accounting principles (Wiley GAAP, published by John Wiley & Son, 605 Third Avenue, New York NY 110158-0112, 2002, no later editions or amendments included)~~, and in such a manner as to provided an accurate report of financial condition, with the exception of the selection of the accounting method to be used or when otherwise directed by statutory requirements. In the event that a credit union is using the modified cash basis of accounting, and the Secretary~~Director~~ determines that~~ such~~ method causes a material misstatement of the financial condition of the credit union, he or she shall require that the credit union convert to the full accrual method of accounting, except when~~where~~ factors such as prohibitive cost or lack of expertise are evident. The Division shall notify in writing any credit union required to convert to the full accrual method and provide 60 days to review and respond.

b) If the credit union does not concur with the Division's requirement, it may request a formal hearing under Section ~~38 Ill. Adm. Code~~ 190.20. The order to change accounting procedures is stayed pending the final outcome of the hearing.

c) Regardless of the method of accounting in use, the following items must be accrued or amortized:

1) Dividends on Classes of Shares;

2) Premiums and Discounts on purchased investments;

3) Depreciation of Fixed Assets;

4) Interest on investments when paid less frequently than once a year.

d) If a credit union uses the accrual method to recognize interest income on consumer loans, the~~such~~ accrual must be stopped and income recognized on a cash basis whenever the borrower is three months or more delinquent in contractual payments.

e) Credit unions' charts of accounts must be kept in sufficient detail to allow accurate and full completion of all reports required by Section 9 of the Act~~ [205 ILCS 305/9]~~.

f) Pursuant to the authority granted the Secretary~~Director~~ by Section 60(B) of the Act~~ [205 ILCS 305/60]~~ to decrease the reserve requirement set forth in Section 60(A) of the Act, a credit union is exempt from the reserve requirement of Section 60(A) provided:

1) The credit union's net worth to asset ratio is 7% or greater; or

2) If the credit union's net worth to asset ratio at the end of a calendar quarter is less than 7%, the credit union transfers an amount equal to .1% of the credit union's assets from undivided earnings to regular reserve at the end of the next calendar quarter and quarterly thereafter until the net worth to assets ratio is equal to or greater than~~then~~ 7%.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.70 Loan Loss Accounting Procedures**

a) For the purpose of absorbing and reporting loan losses, all credit unions must establish, at a minimum, the following accounts in the general ledger:

1) Allowance for Loan Losses (ALL) – A portion of the statutory Regular Reserve segregated and reported as a direct reduction of loans. The ALL shall fairly present the value of loans and probable losses for all categories of loans. Adjustments to the ALL shall be made prior to the distribution

or posting of any dividend to the accounts of members.

2) Provision for Loan Losses (PLL) – An expense account, immediately preceding dividend expense, used to reflect the cost of losses on loans. Replenishment of the allowance for loan losses must be expensed using the PLL account.

b) The ALL shall be established and maintained subject to the following requirements:

1) The ALL shall be established based upon separate loss calculations reflecting loans secured by real estate and loans not secured by real estate. A credit union may further segment its loan portfolio, to recognize loss contingencies, by identifying risk characteristics that are common to groups of loans. Portfolio segmentation and impairment measurement may be based upon many factors, including without limitation major loan types and product line segments with differing risk characteristics.

2) The ALL shall be maintained at a level equivalent to an amount computed using an historical loan loss experience ratio and an individual classification of probable losses for all consumer and real estate loans. *In determining the appropriate balance in the* ALL, *a credit union may determine its historical loss rate using a defined period of time of less than 5 years, provided that:*

A) The credit union employs a certified public accountant to perform its annual external independent audit;

B) *The methodology* developed by the credit union *to determine the defined period of time is formally documented in the credit union's policies and procedures* or management memoranda, *and is appropriate to the credit union's size, business strategy and loan portfolio characteristics, and the economic environment of the areas and employers served by the credit union;*

C) *Supporting documentation is maintained* by the credit union for a period of no less than three audit cycles *for the technique used to develop the credit union loss rates, including the period of time*

*used to accumulate historical loss data and the factors considered in establishing the time frames; and*

D) *The external auditor conducting the credit union's financial statement audit has analyzed the methodology employed by the credit union and concludes that the financial statements, including the allowance for loan losses, are fairly stated in all material respects in accordance with U.S. Generally Accepted Accounting Principles, as promulgated by the Financial Accounting Standards Board.* [205 ILCS 305/34(4)]

3) To the extent consistent with GAAP~~U.S. Generally Accepted Accounting Principles~~, the design and implementation of ALL methodologies and supporting documentation practices shall be in accordance with the National Credit Union Administration's Interpretive Ruling and Policy Statement (IRPS) 02-3 (NCUA, 1775 Duke Street, Alexandria VA 22314-3428, Allowance for Loan and Lease Losses Methodologies and Documentation for Federally-Insured Credit Unions, 67 Fed. Reg. 37445~~; May 29, 2002~~).

4) A credit union that does not employ a certified public accountant to perform an annual external independent audit shall utilize the five-year period preceding the subject fiscal period to compute its historical loan loss experience ratio. A credit union not employing a certified public accountant to perform its annual external independent audit may adjust the five-year historical time period to more accurately reflect its loan loss experience, upon application to and receipt of written approval from the Secretary~~Director~~.

5) Historical Loss Experience Ratio

A) The historical loss experience ratio is computed by dividing the total net loan losses for the appropriate period of time determined by the credit union under subsection (b)(2) or (b)(4), as applicable, by an amount representing the average loan balances for the defined period. The resulting ratio is multiplied by the total loans outstanding, less:

i) loans that have been classified individually; and

ii) pools of homogenous loans for which an estimated loss percentage has been utilized.

B) A new credit union will determine its historical loss experience ratio using available data. As used in this subsection (b)(5), "net loan losses" means loan chargeoffs, less loan recoveries, for the defined period of time.

6) If a pool consists of a large group of homogeneous loans, a credit union may utilize an estimated loss percentage on the pool to be determined by collectively evaluating the pool of loans for impairment in accordance with GAAP~~U.S. Generally Accepted Accounting Principles~~. The portion of the ALL attributable to the pool of loans may be determined by applying the estimated loss percentage to the total outstanding balance of the loans comprising the pool instead of individually classifying delinquent loans in the pool.

7) Notwithstanding anything to the contrary in this subsection (b), a credit union that employs a certified public accountant to perform its annual external independent audit must formally document its methodology to support:

A) Its utilization of any defined period of time in determining its historical loss rate; and

B) Its decision to change its defined period of time in determining its historical loss rate.

c) Delinquency is defined as the failure to make a required payment on or before the contractual due date. Loans delinquent more than 60 days, bankruptcy and loans that exhibit deficiencies that impair their full collectability~~collectibility~~ shall be classified as either substandard, doubtful or loss.

1) Substandard Loans – A substandard loan is one that is inadequately protected by the current sound worth and paying capacity of the obligee or of the collateral pledged. Loans classified as substandard have a well defined weakness or weaknesses that jeopardized the liquidation of the debt. They are characterized by the distinct possibility that the credit

union will sustain some loss if the deficiencies are not corrected. Loans in this category shall generally be listed in a range from zero to under 50 percent potential loss.

2) Doubtful Loans – A loan classified doubtful has all the weaknesses inherent in a loan classified substandard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions and values, highly questionable and improbable. The possibility of loss is extremely high, but because of certain important and reasonable specific pending factors that~~which~~ may work to the advantage and strengthening of the loan, its classification as an estimated loss is deferred until a more exact status may be determined. Loans in this category shall be listed at a minimum 50 percent potential loss.

3) Loss Loans – Loans classified as loss loans are considered uncollectible and shall be listed at 100 percent potential loss. Loans considered loss loans include, but are not limited to:

A) Any loan 180 days or more delinquent without a payment of at least 75% of the contractual payment within the last 90 days. Involuntary transfers from shares and proceeds from the sale of collateral and insurance settlement shall not be considered as payments.

B) Any loan that is 180 days or more delinquent and referred to an attorney or a collection agency.

C) Any loan that~~which~~ was previously 180 days or more delinquent, has been refinanced or extended and has subsequently become 90 days or more delinquent. In instances in which~~where~~ a delinquent loan is refinanced or extended and does not fully and fairly disclose the delinquency as determined in a statutory examination of the credit union, the loan shall be immediately classified as a loss loan.

D) Any loan with respect to which the borrower has filed a Chapter 7 bankruptcy petition and has been granted a discharge by the court.

E) Any loan with respect to which the borrower has filed a Chapter 13 bankruptcy and the credit union has not received a payment within 180 days or more after the confirmation of the plan, unless the plan stipulates repayment of the loan in full and the credit union has determined from the Trustee that plan payments are being made on a timely basis to the Trustee but have not yet been disbursed to the credit union.

F) Any loan with respect to which the borrower's whereabouts is unknown (a "skip"), unless there is a comaker whose whereabouts is known and the loan is less than 180 days delinquent.

G) Any loan where a "deficiency balance" has resulted from the sale of collateral or an insurance settlement unless there is documented evidence of periodic payments on a consistent basis in an amount sufficient to retire the deficiency balance in a reasonable time.

4) When~~Where~~ there is evidence of collectability~~collectibility~~ of loans meeting the loss loans criteria of subsection (c)(3)~~ of this Section~~, the credit union's records shall list the loans and classify them as substandard or doubtful and detail the evidence of collectability~~collectibility~~ used to exclude each loan from the loss loan category. Evidence of collectability~~collectibility~~ shall be the following collection activities and remedies:

A) Execution and filing of an enforceable reaffirmation agreement on the loan in a Chapter 7 bankruptcy proceeding prior to completion of the Division's loan analysis in any statutory examination of the credit union.

B) Voluntary repayment of the loan pursuant to section~~Section~~ 524(f) of the federal Bankruptcy Code (11 USC 524(f)).

C) Collection of the loan pursuant to repossession of collateral without judicial process, or by replevin, detinue, forcible entry and detainer or mortgage foreclosure proceedings.

D) Collection of the loan pursuant to post-judgment enforcement remedies including wage deduction, garnishment and turnover

orders entered in citation to discover assets supplementary proceedings.

E) The entry of a judgment pay plan order providing for repayment of the loan in a judicial proceeding.

F) Documented evidence of repayment of that portion of the loan covered by collateral protection or other insurance policies.

G) Documented evidence of periodic payments on a consistent basis in an amount sufficient to retire the loan balance in a reasonable time.

5) Before every dividend declaration or every closing date, all delinquent and bankrupt loans shall be individually classified as either substandard, doubtful or loss. All loans classified as losses must be charged off to the ALL.

d) Nothing in this Section shall be applicable to the establishment of an Allowance for Loan Losses account for business loans. Business loans shall be classified pursuant to Section 190.165.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.90 Fixed Asset Investments**

a) Definitions

"Fixed assets" means premises and furniture, fixtures and equipment, as those terms are defined in this Section:

"Premises" includes any office, branch office, suboffice, service center, parking lot, other facility, or real estate where the credit union transacts or will transact business.

"Furniture, fixtures and equipment" includes all office furnishings, office machines, computer hardware and software, automated terminals, and heating and cooling equipment.

"Investment in fixed assets" means:

any investment in real property (improved or unimproved) that is being used or is intended to be used as premises, excluding premises leased for five years or less;

any leasehold improvement on premises;

the present value of the aggregate of all capital lease payments pursuant to lease agreements for fixed assets, excluding lease payments for premises leased for five years or less;

any investment in the bonds, stock, debentures, or other obligations of a partnership or corporation or limited liability entity, including a credit union service organization, holding any fixed assets used by the credit union and any loans to that~~such~~ partnership or corporation or limited liability entity; and

any investment in furniture, fixtures and equipment.

"Retained earnings" includes undivided earnings, regular reserve, other reserves, and any other appropriations designated by management or regulatory authorities.

b) Investment in Fixed Assets

1) Credit unions with assets of less than $1,000,000 that choose to invest in premises must apply to the Division for approval.

2) Credit unions with assets of $1,000,000 or more may invest in fixed assets, without the prior approval of the Division, subject to the following conditions:

A) the aggregate amount of the investments does not exceed the lesser of 70% of the credit union's retained earnings or 6% of total assets; or

B) the aggregate amount of the investments exceeds the lesser of 70% of the credit union's retained earnings or 6% of total assets, provided the credit union has:

i) a current net worth of 9% or, if applicable, 200 basis points over its risk based net worth level, whichever is higher;

ii) a composite CAMEL rating of 1 or 2 for 2 consecutive examinations; and

iii) a consistency in management evidenced by retention of the same chief management official during the 2-year period preceding the subject fixed asset investment.

c) Whenever a fixed asset investment in premises does not require Division approval, the credit union shall give the Division notice of the credit union's intent to make the investment, at least 14 days prior to becoming obligated on the investment in premises.

1) The notice to the Division shall include the following information:

A~~1~~) the credit union's calculation of its total fixed asset investment authority;

B~~2~~) the estimated total cost of the planned fixed asset investment in premises;

C~~3~~) a general description of the planned fixed asset investment in premises.

2) Notice under this subsection (c) is effective as of the date the notice is transmitted from the credit union.

d) Credit unions with assets of less than $1,000,000 seeking to invest in premises or credit unions with assets of $1,000,000 or more seeking to invest in fixed assets in an amount that exceeds the lesser of 70% of retained earnings or 6% of total assets and not exempted from obtaining approval by subsection (b)(2)(B)~~ of this Section~~ must submit to the Division an application for approval. The application for approval must contain the following minimum supporting documentation:

1) why the purchase and/or lease is necessary to serve the credit union's members;

2) details of the proposed transaction including:

A) location and full description of the fixed asset;

B) if a purchase of premises is involved, current valuation by an independent appraiser;

C) purchase price or lease details;

D) current owners and their relationship to the credit union or to any members of the credit union;

E) how the project will be financed;

F) if a purchase, lease or improvement of premises is involved, a summary of planned due diligence inspections to verify building, building line and use or occupancy restrictions; conditions and covenants on record; zoning laws and ordinances; easements for public utilities; and other matters pertinent to the transaction; and

G) evidence that the increase in operating expenses caused by the project can be supported after accounting for the current level of expenses and dividend commitments;

3) the credit union's latest balance sheet, income statement and loan delinquency report;

4) a certified copy of Board minutes that contain approval for the project.

e) The Division shall respond to applications for approval of fixed asset investments as follows:

1) The Division shall inform the credit union applicant, in writing, of the date the letter of application was received.

2) Approval of applications shall be given in writing once it is determined by the Division that the proposal will not adversely affect the credit union's financial position. The determination will be based on the past history,

current financial condition, projections of the credit union, and whether the increase of operating expenses caused by the project can be supported after accounting for the current level of expense, dividend and reserve commitments.

3) An approval will state a dollar amount or percentage of retained earnings that may be invested in fixed assets by the credit union.

4) The Division shall provide to credit union applicants written notification of action taken within 45 calendar days after receipt of the complete package of supporting documentation from the credit union. If the credit union does not receive written notification of the action taken within 45 calendar days after the date the complete package of supporting documentation was received by the Division, the credit union may proceed with its proposed investment in fixed assets.

f) A credit union that has received approval for a specific fixed asset transaction from the Division prior to the date of promulgation of amendments to this Section shall continue to be eligible to consummate the transaction after the~~such~~ date of promulgation, without further Division approval.

g) In recording all transactions for fixed assets, GAAP~~generally accepted accounting principles~~ will be followed~~ (Wiley GAAP, published by John Wiley & Sons, 605 Third Avenue, New York NY 10158-0012, 2002 edition, no subsequent dates or editions)~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.120 Bond and Insurance Requirements**

a) Bond:

1) The board~~Board~~ of directors~~Directors~~ or liquidating agent of each credit union shall provide a fidelity bond in a form determined by the Secretary~~Director~~ to meet the requirements of this Section and issued by a corporate surety authorized to do business in this State. The bond must provide coverage for the fraud and dishonesty of all employees, directors, officers~~,~~ and committee members (see Sections ~~205 ILCS 305/~~20(2), (3) and (4) and 30(13) of the Act) and for losses caused by persons outside of

the credit union due to theft, holdup, vandalism~~,~~ and other criminal acts. Coverage for the faithful performance of duty is an option the board~~Board~~ of directors~~Directors~~ may provide for all or selected employees, directors, officers~~,~~ and committee members.

2) Each bond shall require the surety to give a minimum of 30 days written notice to the Credit Union Division of the Division prior to cancellation of any or all coverages set out in the bond.

3) Any form of rider or exclusion added to the bond~~Bond~~ must have prior approval from the Secretary~~Director~~, to insure that at least the minimum bond is in effect and not compromised.

4) A copy of the Declaration Page describing the coverage of the bond~~Bond~~ and any riders or exclusions are to be forwarded 10 days prior to the anniversary date or a change in coverage to the Division by the surety. The Declaration Page must show at least the following: the form number of the bond~~Bond~~, the number of the bond~~Bond~~, the name of the credit union, the rating period, or anniversary date, the term of the bond~~Bond~~ and the maximum limits of liability under the insuring clauses.

b) Bond Schedule:

1) The minimum principal amount of the~~such~~ bond shall be based on the total assets of the credit union, according to the following schedule:

| Total Assets | Minimum Coverage |
|---|---|
| $0 to $10,000 | Coverage equal to the credit union's~~Credit Union's~~ assets~~.~~ |
| $10,001 to $1,000,000 | $10,000 for each $100,000 or fraction thereof~~.~~ |
| $1,000,001 to $50,000,000 | $100,000 plus $50,000 for each million or fraction thereof over $1,000,000 |
| $50,000,001 to $295,000,000 | $2,550,000 plus $10,000 for each |

| | |
|---|---|
| | million or fraction thereof over $50,000,000 |
| Over $295,000,000 | $5,000,000 |

2) Coverage in amounts in excess of the above minimum requirements may be purchased when the board of directors, in fulfilling its ~~their~~ duty to provide adequate fidelity bond coverage, determines the additional coverage is needed. Minimum coverage limits must be extended to cover the additional risk when, aside from events that~~which~~ cannot be expected to recur, the total of cash on premise or in transit exceeds the minimum coverage limits. For purposes of this Section, the term cash shall include currency, coin, share drafts, checks, banknotes, Federal Reserve notes, revenue stamps, postage stamps and SNAP benefits~~food stamps~~.

3) The board of directors shall review the bond coverage at least once each year to determine that the bond coverage is adequate and at a minimum, is in compliance with the above scheduled requirements. The board of directors may, consistent with the requirements of this Section, elect to purchase bond coverage subject to a deductible.

4) The maximum amount of deductibles allowed shall be based on the total assets of the credit union according to the following:

| Assets | Maximum Deductibles |
|---|---|
| $0 to $100,000 | No deductibles allowed |
| $100,001 to $250,000 | $1,000 |
| $250,001 to $1,000,000 | $2,000 |
| Over $1,000,000 | $2,000 plus $^{1}/_{1000}$ of total assets up to a maximum deductible of $200,000. |

5) No deductible shall exceed 10% of a credit union's Regular Reserve unless the credit union creates a segregated Contingency Reserve for the amount of the excess. The Reserve for Loan Losses account may not be

considered part of the Regular Reserve when determining the maximum deductible. The deductible shall not exceed the maximum amounts listed in subsection (b)(4) unless approved by the Secretary~~Director~~ in accordance with subsection (b)(6).

6) A deductible may be applied separately to one or more insuring clauses in a blanket bond. Deductibles in excess of those shown in this Section must have the written approval of the Secretary~~Director~~ at least 20 days prior to the effective date of the~~such~~ deductibles. For purposes of this Section, the Secretary~~Director~~ shall allow an excess deductible if the credit union will not be harmed~~ thereby~~. In making that determination, the Secretary~~Director~~ shall consider, but is not limited to, the adequacy of reserves, the current financial condition of the credit union, financial trends and the credit union's lending record.

7) The Secretary~~Director~~ will require increased bond requirements for any credit union when the Secretary~~Director~~ determines that current coverage is insufficient. In making that determination, the Secretary~~Director~~ shall consider the factors listed in subsection (b)(6). The board of directors of the credit union must obtain additional coverage within 30 days after the date of written notice from the Secretary~~Director~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.130 Verification of Share and Loan Accounts**

a) The Supervisory Committee must make or cause to be made at least once each year a reasonable percentage verification of members' share and loan accounts. Except when~~where~~ prior written permission is given by the Division, for good cause shown, the verification results are to be reported in the Supervisory Committee Report filed with the Division. The verification shall be conducted by the Committee, or by a registered public accountant, under the supervision of the Committee.

b) Verifications Conducted~~conducted~~ by the Supervisory Committee~~.~~

1) The Committee must test 100% of the accounts at least once every two years; however, the Committee may submit a modified program using generally accepted auditing standards for approval by the Division. When

conducting the verification, the Committee must establish the following controls:

A) The commencement of the verification must be on a surprise basis, including taking possession and control of ~~such~~ books and records, or copies thereof, ~~as are~~ necessary for the audit.

B) All work is to be done by the Supervisory Committee or its designated agents; all credit union staff, employees~~,~~ and other directors shall not be involved, other than to explain exceptions.

C) General notice of the verification is to be publicized to the membership in the credit union offices and by other appropriate means.

D) Separate records of members' share and loan account trial balances are to be maintained by the Committee; the Committee must also maintain a separate list of members that~~which~~ is to be updated from the Board minutes for new and terminated members.

E) All responses and communications to the verifications by members must be to the Supervisory Committee or its agents.

F) All records supporting the verification are to be retained by the Supervisory Committee.

2) Verification requests may be of either the positive kind, which requires a direct reply or attestation by the member as to the correctness or the balances, or the negative kind, which require replies only if the information listed is, in the opinion of the member, incorrect. Provided however, that the following accounts must be verified using the positive method:

A) Inactive or dormant accounts – members' accounts that~~which~~ show no member initiated activity for at least 3 years.

B) Accounts with recent activity following a period of at least 3 years of dormancy.

C) Accounts that show unusually large share withdrawals.

D) Accounts that have delinquent loans.

E) Share and loan accounts closed or charged off since the last verification was conducted.

F) Accounts where negative requests are returned due to an inaccurate address.

G) Any other accounts with unusual or significant activity, or which, in the judgment~~judgement~~ of the Committee, should be done on a positive basis to verify the integrity of the negative verification requests.

3) All discrepancies reported should be resolved~~,~~ and, if known, the reason for the error shall be reported to the board~~Board~~, along with the results of the audit.

c) Verification Conducted~~conducted~~ by a CPA Firm~~firm~~ or Individual Registered~~individual registered~~ with the State of Illinois to Practice~~practice~~ as a Public Accountant~~.~~

1) When the Supervisory Committee's audit is performed by a CPA or a Registered Public Accountant, either positive or negative verification requests may be used. The extent and nature of all tests is to be decided jointly by the Committee and the CPA or Registered Public Accountant.

2) At the conclusion of the audit, a statement must be given that~~which~~ reflects the work performed and the responsibilities accepted by the firm or individual. This statement shall be signed by the person in charge of the audit, or by the person who accepts responsibility for the firm, and shall be attached to the audit report given to the board~~Board~~ of directors~~Directors~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.140 Real Estate Lending**

a) A credit union~~Credit Union~~ with total assets greater than $1 million may, following a resolution of its board~~Board~~, make loans secured by a lien on real estate, including an assignment of a beneficial interest in a land trust, subject to the following procedures:

| Total Assets of a Credit Union | Maximum Amount of Loans Secured by Real Estate | Aggregate of All First Mortgage Loans Secured by Real Estate |
|---|---|---|
| Under $1 million | Lending Limits for Consumer Loans | 0% of total assets |
| $1 - 2.5 million | $165,000* | 25% of total assets |
| $2.5 - 5 million | $250,000* | 30% of total assets |
| $5 - 10 million | $330,000 | 35% of total assets |
| $10 - 30 million | $580,000 | 40% of total assets |
| $30 - 100 million | $825,000 | 45% of total assets |
| Over $100 million | $1,000,000 | 50% of total assets |

* The aggregate loans to one member may not exceed the aggregate limit referenced in subsection (e).

b) Credit unions with assets under $1 million may make home equity and second mortgage loans subject to the lending limits for consumer loans set forth in Section 190.160. Credit unions~~Unions~~ with assets under $1 million shall not make first mortgage real estate loans.

c) Credit unions shall not make first mortgage real estate loans for more than the estimated market value or appraised value of the real estate securing the loans. Real estate loans, other than first mortgage loans, shall be limited to the value of the member-borrower's equity in the real estate securing the loan, provided a credit union may consider as equity any outstanding loan amount secured by the real estate if the outstanding loan will be repaid with the proceeds of the credit union's loan.

d) The maximum individual lending limit and the maximum ratio of first mortgage real estate loans may be increased by obtaining written approval from the Secretary~~Director~~. Approval~~Such approval~~ is to be based upon the need of the members and the credit union's real estate lending record.

e) The maximum limit on an individual loan by credit unions with assets greater

than $1 million is in addition to the secured and unsecured lending limits of Section 190.160~~ of this Part~~; provided, however, in no event shall all loans to any member exceed in the aggregate 10% of the credit union's unimpaired capital and surplus as defined in Section 190.2~~ of this Part~~. Loans subject to the requirements for business loans set forth in Section 190.165~~ of this Part~~ shall be subject to the appraisal requirements of subsection (h), but shall not be subject to the other provisions of this Section.

f) The maximum maturity of a loan secured by a first mortgage shall not exceed 40 years.

g) Procedures

1) All loans secured by a lien on real estate shall be made based upon prudent written lending policies and sound lending practices as documented in each member's loan file. Unless waived by the Secretary~~Director~~, lending policies shall include, without limitation, acceptable debt-to-income and loan-to-value ratios that will be considered the types of real estate security that will be accepted and any other prudent data considered necessary to determine the appropriateness of a loan request. All applicable Illinois and federal~~Federal~~ statutes shall be observed.

2) All accounting for real estate loan transactions shall be in accordance with GAAP~~generally accepted accounting principles~~.

h) Documentation

1) Any credit union granting loans secured by a lien in real estate must procure and retain the following documentation in its files:

A) A loan application that specifies the purpose of the loan (equity, purchase, construction, refinance, etc.). The application must contain sufficient information to support the approval of the loan. The~~Such~~ information shall include without limitation: the amount of the loan requested; the purchase price (if applicable); a listing of the borrower's assets and liabilities; a statement of the borrower's income; a specific identification of the property; and an explanation of the source of the borrower's down payment. If the loan proceeds will be used for the purchase of the property, a copy

of the real estate sale contract shall be included as an attachment to the application.

B) A legal opinion from the credit union's attorney, or a title insurance policy that identifies the credit union's lien position on the property used to secure the loan. In the case of home equity lines of credit, second mortgages, and non-purchase money first mortgage transactions, a title search prepared by a service provider capable of conducting ~~such~~ a search shall be acceptable.

C) For transactions of $250,000 or less, a written estimate of market value of the property securing the loan, performed by an individual having no direct or indirect interest in the property and experienced to perform ~~such~~ estimations of value for the type and amount of credit being considered. For transactions over $250,000, an appraisal by a state certified or licensed appraiser that~~which~~ estimates the market value of the property used as security for the loan.

D) A credit report prepared by the credit union or a credit reporting agency. The report, in conjunction with the information contained in subsection (h)(1)(A), must demonstrate the applicant's past history of repayment and ability to repay the loan in question.

E) A duly executed note and mortgage agreement that outline the borrower's agreement to repay the loan on the terms agreed, and the borrower's agreement to provide the credit union with a valid security interest in the subject property. The mortgage agreement must contain an accurate legal description of the subject property and be duly recorded in the office of the appropriate county recorder of deeds.

F) A settlement statement reflecting all costs of closing and all disbursements of funds at closing for real estate loans that require the use of a settlement statement under the federal Real Estate Settlement Procedures Act (RESPA) (12 USC 2601).

G) On any loan for which~~where~~ the lesser of the loan-to-value ratio or loan-to-purchase price ratio exceeds 80%, the credit union may

require the borrower to obtain private mortgage insurance insuring the excess of the loan above the 80% factor.

H) In the event the subject loan is to be used for the construction of a residential dwelling that is or will be the principal residence of the member-borrower and the loan will be secured by a perfected first lien or first security interest in favor of the credit union, the credit union must obtain satisfactory evidence of the payment in full of the costs of furnishing labor and material in connection with the~~such~~ construction. The~~Such~~ evidence shall include receipt of an owner's statement, under oath, setting forth the names of all parties with whom the owner has contracted for the furnishing of labor and material; a general contractor's sworn statement from each of the parties named in the owner's statement; a subcontractor's sworn statement from each subcontractor named in the general contractor's statement; and partial and final unconditional lien waivers from the general contractor and all subcontractors and materialmen indicating that they have completed their respective portion of the work and been paid in full. The credit union must inspect, or cause to be inspected by a third party, the completion of each phase of the work for which an advance of any portion of the loan proceeds is sought. Any such inspections must be clearly documented in the file as to the date of the inspection and a brief explanation of the work progression. Additionally, the credit union must obtain a borrower payment authorization, in connection with each payment to the general contractor. This subsection (h)(1)(H) shall not apply to a loan to finance the repair, alteration or improvement of a residential dwelling which is the residence of the member-borrower.

2) A loan secured by a lien on real estate is exempt from the requirements of subsections (h)(1)(B), (C) and (G) of this Section if the loan complies with the following criteria:

A) The loan is not used for the purchase or refinancing of the real estate securing the loan.

B) The lien on real estate is taken as collateral solely through an abundance of caution.

C) The terms of the transaction are not more favorable than they would have been in the absence of the lien on real estate.

D) The transaction complies with the lending limits and other requirements for consumer loans set forth in Section 190.160~~ of this Part~~.

i) Sale of Real Estate Loans

1) A credit union may sell, in whole or in part, any loan secured by real estate to:

A) Federal National Mortgage Association (FNMA).

B) Government National Mortgage Association.

C) Federal Home Loan Mortgage Corporation.

D) Federal, Illinois and Local Housing Authorities.

E) Federal or Illinois Chartered Credit Unions, Banks, and Savings and Loan Associations.

F) Residential mortgage licensees properly registered with and licensed by the Department of Financial and Professional Regulation-Division of Banking~~Illinois Director of Banks and Real Estate~~.

G) Other~~Such other~~ institutions ~~as~~ approved by the Secretary~~Director~~.

2) All such sales shall not be subject to recourse or repurchase that enables the credit union to retain control over the transferred assets. The credit union shall have surrendered control over the transferred assets if:

A) The transferred assets have been put presumptively beyond the reach of the credit union transferring the assets and its creditors;

B) The purchaser has the right to pledge or exchange the assets; and

C) The credit union does not maintain effective control over the transferred assets through an agreement that both entitles and obligates the credit union to repurchase the assets before their maturity.

3) A limited recourse provision in a sale agreement that obligates the credit union transferring assets to purchase the assets because of breach of warranty or misrepresentation shall be considered a sale.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.150 Reverse Mortgage**

a) "Reverse Mortgage" loans shall be granted by credit unions authorized to make real estate loans under Section 46(2) of the ~~Illinois Credit Union~~ Act ~~[205 ILCS 305/46(2)]~~ and for the purposes stated in Section 46(3) of the ~~Illinois Credit Union~~ Act. The~~Such~~ loans must be on forms and in a manner consistent with all relevant statutory and regulatory authority, including Section 190.140.

b) The~~Such~~ loans shall be based upon prudent lending and underwriting standards and procedures.

c) No such loan, including any existing liens, shall exceed 80% of the appraised value of the real estate.

d) The total of all these~~such~~ loans may not, without prior approval of the Secretary~~Director~~, exceed one third of all real estate loans outstanding.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.160 Lending Limits – Consumer Loans**

a) The board~~Board~~ of directors~~Directors~~ of a credit union shall, for loans other than loans secured by an interest in real estate, establish the maximum lending limits that~~which~~ shall not exceed the limits in the following schedule. A credit union may request approval from the Secretary~~Director~~ for an exception to these limits, which shall be in writing substantiating the need for higher limits, shall detail the credit union's record of lending activity, and shall include financial statements

reflecting sound fiscal history. In no event shall all loans to any member exceed, in the aggregate, 10% of the credit union's unimpaired capital and surplus as defined in Section 190.2~~ of this Part~~.

| Total Credit Union Assets | Maximum Unsecured Limit, Including Unsecured Credit Cards | Maximum Secured Limit |
|---|---|---|
| $0 - 500,000 | $4,000*$~~3,500*~~ | $30,000*~~$25,000*~~ |
| $500,000 - 1 million | $8,000~~$6,500~~ | $38,000~~$31,500~~ |
| $1 - 5 million | $15,000~~$12,500~~ | $60,000~~$50,000~~ |
| $5 - 10 million | $18,000~~$15,000~~ | $75,000~~$62,500~~ |
| 10 - 30 million | $24,000~~$20,000~~ | $98,000~~$81,500~~ |
| $30 - 100 million | $30,000~~$25,000~~ | $120,000~~$100,000~~ |
| Over $100 million | $48,000~~$40,000~~ | $180,000~~$150,000~~ |

* The aggregate loans to one member may not exceed the aggregate limit referenced in subsection (a).

b) The unsecured loan limits, including unsecured credit cards, and secured loan limits are separate limits for each member. Subject to the member aggregate loan limit referenced in subsection (a) and provided a member is credit worthy, the credit union may lend a total amount equal to the secured and unsecured loan limit in a single loan to any one member.

c) The above limits may be extended by the amount of the member's unencumbered share accounts, which must be pledged and frozen for the loan amount in excess of the limits.

d) All loans are to be granted based upon prudent lending practice and procedures and in accordance with written lending policies and procedures prescribed by the board~~Board~~ of directors~~Directors~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.165 Business Loans**

a) The following are definitions applicable in this Section:~~.~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) "Associated member~~Member~~" means any member with a shared~~common~~ ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower.

2) "Construction or development loan" is a financing arrangement for acquiring property or rights to property, including land or structures, with the intent to convert it to income-producing property such as residential housing for rental or sale; commercial use; industrial use; or similar uses. Construction or development loan includes a financing arrangement for the major renovation or development of property already owned by the borrower that will convert the property to income producing property or convert the use of income producing property to a different use from its use before the major renovation or development or is a major expansion of its current use. Construction or development loan does not include loans to finance maintenance, repairs or improvements to an existing income producing property that do not change its use.~~A "Business Loan" is defined as any loan, line of credit, letter of credit (including any unfunded commitments), to a member of the credit union, for which the proceeds will be used to finance a commercial, corporate, other business investment property or venture, or agricultural purpose, including any interest the credit union obtains in a loan made by another lender to a member or nonmember of the credit union pursuant to Section 51 of the Act if the loan would constitute a business loan if made by the credit union, except that the effect of any interest obtained in nonmember business loans on a credit union's aggregate member business loan limit will be as set forth in subsection (g)(2)(D).~~

3) "Immediate family member" means a spouse or other family member living in the same household.~~"Net Worth" means retained earnings as defined under GAAP. Retained earnings include regular reserves, undivided earnings and any other appropriations designated by management or regulatory authorities or Surplus, excluding the Allowance for Loan Losses Accounts.~~

4) "Loan-to-value ratio" is the aggregate amount of all sums borrowed, including outstanding balances plus any unfunded commitment or line of credit from all sources on an item of collateral divided by the market value of the collateral used to secure the loan.~~"Net Member Business Loan Balance" means the outstanding loan balance plus any unfunded~~

~~commitments, reduced by any portion of the loan that is secured by shares in the credit union, or by shares or deposits in other financial institutions, or by a lien in the member's primary residence, or insured or guaranteed by any agency of the federal government, a state or any political subdivision of such state, or subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of such state, or sold as a participation interest without recourse and qualifying for true sales accounting under generally accepted accounting principles.~~

5) "Member business loan" includes any loan, line of credit, or letter of credit (including any unfunded commitments) in which the borrower uses the proceeds for the following purposes:

A) Commercial;

B) Corporate;

C) Other business investment property or venture; or

D) Agricultural.

~~"Primary Residence" means the address at which one resides.~~

6) "Net worth" means retained earnings as defined under GAAP. Retained earnings include regular reserves, undivided earnings and any other appropriations designated by management or regulatory authorities or surplus, excluding the allowance for loan losses accounts.~~"Immediate Family Member" means a spouse or other family member living in the same household.~~

7) "Net member business loan balance" means the outstanding loan balance plus any unfunded commitments, reduced by any portion of the loan that is secured by shares in the credit union, or by shares or deposits in other financial institutions, or by a lien in the member's primary residence, or insured or guaranteed by any agency of the federal government, a state or any political subdivision of a state, or subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of a state, or sold as a participation interest without recourse and qualifying for true sales accounting under GAAP.

8) "Primary residence" means the address at which one resides.

b) Exceptions to and inclusions in the definition of "member business loan":

1) The following are not member business loans:

A) A loan fully secured by a lien on a 1 to 4 family dwelling that is the member's primary residence;

B) A loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;

C) Loans to a member or an associated member that, when the net member business loan balances are added together, are equal to less than $50,000;

D) A loan in which a federal or state agency (or its political subdivision) fully insures repayment, or fully guarantees repayment, or provides an advance commitment to purchase in full; or

E) A loan granted by a corporate credit union to another credit union.

2) This Part does not apply to loans made by a credit union to credit unions or loans made by a credit union to credit union service organizations (CUSOs), as defined in Section 190.5.

3) Any interest a federally-insured credit union obtains in a loan that was made by another lender to the credit union's member is a member business loan, for purposes of this Section and the risk weighting standards of part 702 of the National Credit Union Administration (NCUA) Regulations (12 CFR 702) to the same extent as if made directly by the credit union to its member.

4) Any interest a federally-insured credit union obtains in a nonmember loan, pursuant to applicable NCUA Regulations (12 CFR 701), is treated the same as a member business loan for purposes of this Section and the risk weighting standards under part 702 of the NCUA Regulations, except that

the effect of the interest on a credit union's aggregate member business loan limit will be as set forth in subsection (g)(2).

~~b) Nothing in this Section shall be applicable to:~~

~~1) loans fully secured by shares in the credit union or deposits in other financial institutions.~~

~~2) net member business loan balances in an aggregate amount of $50,000 or less to one member or associated member for which the proceeds may be used for a commercial business or agricultural purpose.~~

~~3) loans to credit union service organizations (CUSO) as defined under Section 190.5 of this Part.~~

~~4) loans for any one to four family owner-occupied parcel of real estate as long as the borrower/owner maintains the subject property as his primary residence.~~

~~5) loans fully secured or fully guaranteed by, or subject to an advance commitment to purchase in full by, an agency of the federal government or of a state or any of its political subdivisions.~~

~~6) loans granted by a credit union to another credit union.~~

c) Prohibited Activities

1) A credit union may not grant a member business loan to the following:

A) Chief executive officer;

B) Any assistant chief executive officers;

C) Chief financial officer;

D) Any associated member or immediate family member of anyone listed in subsections (c)(1)(A) through (c)(1)(C).

2) A credit union may not grant a member business loan to a compensated director unless the board of directors approves granting the loan and the compensated director is recused from the decision making process.

3) Equity agreements/joint ventures. A credit union may not a grant a member business loan if any additional income received by the credit union or senior management employees is tied to the profit or sale of the business or commercial endeavor for which the loan is made.

d) Credit unions with assets greater than $30 million may make business loans in accordance with specific lending policies adopted by the board of directors. The policies shall be reviewed annually and ~~which~~ shall address~~, but not be limited to~~:

1) Types of business loans to be made within a designated trade area.

2) A requirement to analyze and document the ability of the borrower to repay the loan consistent with appropriate underwriting and due diligence standards, which also addresses the need for periodic financial statements, credit reports, and other data when necessary to analyze future loans and lines of credit, such as, borrower's history and experience, balance sheet, cash flow analysis, income statements, tax data, environmental impact assessment, and comparison with industry averages, depending upon the loan purpose.

3) Expertise Requirement

A) Provisions for ensuring the utilization of services of experienced personnel with at least 2 years of direct experience with the type of business loans the credit union will be making. A credit union may comply with this experience requirement without hiring staff as long as the credit union ensures that the expertise is available. For example, a credit union may use the services of a CUSO, an employee of another credit union, an independent contractor, or other third parties. However, the actual decision to grant a loan must reside with the credit union.

B) Any third party used by a credit union to meet the requirements of subsection (d)(3)(A) must be independent from the transaction and a credit union is prohibited from using a third party to meet the

requirements of this subsection (d) if the credit union is purchasing a business loan, or a participating interest in a business loan, from the third party responsible for reviewing the loan, or if the third party has an interest in the collateral securing a business loan that~~which~~ the third party is responsible for reviewing, with the following exceptions:

i) The third party may provide a service to the credit union related to the transaction, such as loan servicing;

ii) The third party may provide the requisite experience to the credit union and purchase a loan or a participation interest in a loan originated by the credit union that the third party reviewed; or

iii) A credit union may use the services of a CUSO that otherwise meets the requirements of subsection (d)(3)(A) even though the CUSO is not independent from the transaction, provided the credit union has a controlling financial interest in the CUSO as determined under GAAP~~generally accepted accounting principles~~.

4) The maximum amount of secured and unsecured business loans to any one member or group of associated members, provided it does not exceed the limits ~~as~~ set forth in subsections (f) and (h).

5) The aggregate amount of the credit union assets in relation to net worth that will be invested in business loans, provided credit unions subject to section 107A of the Federal Credit Union Act (12 USC 1757a) may not exceed the limit set forth in subsection (g).

6) The maximum amount of credit union assets in relation to net worth that will be allotted to given types of business loans.

7) Collateral requirements, including, but not limited to:

A) Loan-to-value ratios;

B) Determination of value;

C) Determination of ownership;

D) Steps to secure various types of collateral; and

E) How often the credit union will re-evaluate the value and marketability of collateral.

8) Defined interest rates and defined maturities of business loans.

9) Loan monitoring, servicing~~,~~ and follow-up procedures, including collection procedures.

10) Identification of those individuals prohibited from receiving member business loans.

e) Business loans shall not be granted by credit unions with assets of $30 million or less unless the Division has approved a credit union's request for a business loan amendment to its bylaws. The request must be accompanied with specific lending policies including but not limited to the criteria listed in subsection (d). All approval of requests shall be based upon the history of the credit union, current financial condition and the adequacy of applicable operating policies as documented in the Division's statutory or special examination. Evaluation of the history, current financial condition, and operating policies of the credit union will include, but not be limited to, the credit union's capital adequacy, asset quality, management policies, earnings~~,~~ and liquidity. These factors must be reflective of a safe and sound financial operation (in accordance with Sections ~~205 ILCS 305/~~8, 9, 36 and 61 of the Act).

f) The net member business loan balances of any one member or group of associated members shall not exceed 15% of the credit union's net worth. Credit unions seeking an exception to this limit must request a waiver in writing. The maximum limit on a member business loan is in addition to the secured and unsecured limits established in Sections 190.160 and 190.140, provided however, in no event shall all loans to any member exceed in the aggregate 10% of the credit union's unimpaired capital and surplus.

g) Aggregate Member Business Loan Limit

1) The aggregate limit on the net member business loan balances of a credit union subject to section 107A of the Federal Credit Union Act~~ (12 USC 1757a)~~, excluding any business loans exempted from the aggregate member business loan limit by section 107A of the Federal Credit Union Act or part~~Part~~ 723 of the National Credit Union Administration Regulations (12 CFR 723, 2012~~2004, no subsequent dates or editions~~), is the greater of:

A) 1.75 times the credit union's net worth or 12.25% of the credit union's assets, whichever is less; or

B) the aggregate member business loan limit authorized by section 107A of the Federal Credit Union Act.

2) If the interest held by a credit union in any loans made by another lender to a nonmember of the credit union would constitute a member business loan if made to a member of the credit union.

A) The total of the interest held in nonmember business loans plus the credit union's net member business loan balances must not exceed the greater of:

i) 1.75 times the credit union's net worth or 12.25% of the credit union's total assets, whichever is less; or

ii) the aggregate member business loan limit authorized by section 107A of the Federal Credit Union Act, unless the credit union has first received approval from the Division.

B) To request approval from the Division, a credit union must submit an application that:

i) Includes a current copy of the credit union's member business loan policies;

ii) Confirms that the credit union is in compliance with all other aspects of this Section;

iii) States the credit union's proposed limit on the total amount of nonmember business loan interests that the credit union may acquire if the application is granted; and

iv) Attests that the acquisition of an interest in nonmember business loans is not being used, in conjunction with one or more other credit unions, to have the effect of trading member business loans that would otherwise exceed the aggregate limit.

C) If the Division approves the request of a state chartered federally insured credit union, the Division will forward the application and its decision to the NCUA regional director. An approved application is not effective until it is approved by the NCUA regional director.

~~Exceptions to the aggregate loan limit for a credit union include:~~

~~A) Credit unions that have a low-income designation or participate in the Community Development Financial Institutions program;~~

~~B) Credit unions that were chartered for the purpose of making member business loans and can provide documentary evidence (such evidence includes but is not limited to the original charter, original bylaws, original business plan, original field of membership, board minutes and loan portfolio).~~

~~C) Credit unions that have a history of primarily making member business loans, meaning that either member business loans comprise at least 25% of the credit union's outstanding loans (as evidenced in any call report or any equivalent documentation including financial statements) or member business loans comprise the largest portion of the credit union's loan portfolio (as evidenced in any call report or any equivalent documentation including financial statements). For example, if a credit union makes 23% member business loans, 22% first mortgage loans, 22% new automobile loans, 20% credit cards loans, and 13% total other real estate loans, then the credit union meets this exception.~~

~~D) If the interest held by a credit union in any loans made by another lender to a nonmember of the credit union would constitute a business loan if made to a member of the credit union, the total of the interest held in such nonmember business loans plus the credit union's net member business loan balances must not exceed the aggregate limit set forth in subsection (g)(1), unless the credit union has requested approval from the Division, by submitting an application that:~~

~~i) Includes a current copy of the credit union's member business loan policies;~~

~~ii) Confirms that the credit union is in compliance with all other aspects of this Section;~~

~~iii) States the credit union's proposed limit on the total amount of nonmember business loan interests that the credit union may acquire if the application is granted; and~~

~~iv) Attests that the acquisition of an interest in nonmember business loans is not being used, in conjunction with one or more other credit unions, to have the effect of trading member business loans that would otherwise exceed the aggregate limit.~~

3) Exceptions to the aggregate loan limit for a credit union include:

A) Credit unions that have a low-income designation or participate in the federal Community Development Financial Institutions program (see 12 USC 4701 et seq.);

B) Credit unions that were chartered for the purpose of making member business loans and can provide documentary evidence (such evidence includes but is not limited to the original charter, original bylaws, original business plan, original field of membership, board minutes and loan portfolio).

C) Credit unions that have a history of primarily making member business loans, meaning that either member business loans

comprise at least 25% of the credit union's outstanding loans (as evidenced in any call report or any equivalent documentation, including financial statements) or member business loans comprise the largest portion of the credit union's loan portfolio (as evidenced in any call report filed between January 1995 and September 1998 or any equivalent documentation, including financial statements). For example, if a credit union makes 23% member business loans, 22% first mortgage loans, 22% new automobile loans, 20% credit cards loans, and 13% total other real estate loans, then the credit union meets this exception.

4) Request for Exception

A) An exception under subsection (g)(3)(A) is effective upon written notice to the Division of that designation or participation.

B) An exception under subsection (g)(3)(B) or (g)(3)(C) must be submitted in writing to the Division, including documentation demonstrating that the credit union meets the criteria for the exception.

i) Approval of an exception shall be given in writing to the credit union.

ii) The exception does not expire until revoked for safety and soundness reasons by the Division.

iii) The Division shall notify the respective region of NCUA of the decision on the request.

~~Request for Exception~~

~~A) An exception under subsection (g)(2)(A) is effective upon written notice to the Division of such designation or participation.~~

~~B) An exception under subsection (g)(2)(B) or (g)(2)(C) must be submitted in writing to the Division, including documentation demonstrating that the credit union meets the criteria for the exception.~~

~~i) Approval of an exception shall be given in writing to the credit union.~~

~~ii) The exception does not expire until revoked for safety and soundness reasons by the Division.~~

~~iii) The Division shall notify the respective Region of the NCUA of the decision on the request.~~

h) Collateral

1) Unless the Division grants a waiver, all member business loans, except those made under subsections (h)(2), (3) and (4), must be secured by collateral. The maximum loan to value (LTV) ratios for all liens shall not exceed 80%, unless the loan amount in excess of 80% is covered through private mortgage or equivalent insurance, or is insured or guaranteed by, or subject to, an advance commitment to purchase by any agency of the federal government or a state or its political subdivisions, but in no case shall the LTV exceed 95%. A federally insured credit union must obtain the personal liability and guarantee of principals, other than principals of a not for profit organization as defined by the Internal Revenue Code (26 USC 501), or those for which the Division grants a waiver. A federally insured credit union that has received a composite CAMEL rating of "1" or "2" from the Division for the last two examinations and maintained a net worth classification of "well capitalized" under part 702 of the NCUA Regulations for the six immediately preceding quarters or, if subject to a risk-based net worth (RBNW) requirement under NCVA Part 702, has remained "well capitalized" for the six immediately preceding quarters after applying the applicable RBNW requirement is exempt from this requirement and may make its own determination whether to require the personal liability and guarantee of principals.

2) Unsecured member business loans may be made if:

A) The credit union has a current net worth of 7% or, if applicable, meets its risk based net worth ratio, whichever is higher;

B) The aggregate of the unsecured outstanding member business loans to any one member or group of associated members does not

exceed the lesser of $100,000 or 2.5% of the credit union's net worth; and

C) The aggregate of all unsecured outstanding member business loans does not exceed 10% of the credit union's net worth.

3) Credit card line of credit programs offered to nonnatural person members, or guaranteed by nonnatural persons, that are limited to routine purposes normally made available under those programs are exempt from the collateral requirement of subsections (h)(1) and (2).

4) Credit unions may make vehicle loans under this Section without complying with the loan-to-value ratios in this Section, provided that the vehicle is a car, van, pick-up truck~~,~~ or sports utility vehicle and not part of a fleet of vehicles.

i) Construction Loans
Unless the Division grants a waiver, loans granted for the construction or development of commercial or residential property are subject to the following additional requirements:

1) The aggregate of all construction and development net member business loan balances must not exceed 15% of the credit union's net worth. The following loans may be excluded from the calculation of the aggregate:

A) loans made to finance the construction of a single-family residence if a prospective homeowner has contracted to purchase the property; and

B) a loan to finance the construction of one single-family residence per member-borrower or group of associated member-borrowers, irrespective of the existence of a contractual commitment from a prospective homeowner to purchase the property;

2) The borrower must have a minimum of 25% equity interest in the project being financed, the value of which is determined by the market value of the project at the time the loan is made, except that the loan to value requirements of subsection (h) shall apply in lieu of this equity interest requirement in the case of loans made to finance the construction of a

single-family residence if a prospective homeowner has contracted to purchase the property and in the case of one loan to a member-borrower or group of associated member-borrowers to finance the construction of a single-family residence, irrespective of the existence of a contractual commitment from a prospective homeowner to purchase the property; and

3) The funds may be released only after on-site, written inspections by qualified personnel and according to a preapproved draw schedule and any other conditions as set forth in the loan documentation.

j) Request for Waiver

1) Credit unions may request a waiver for a category of business loans in the following areas:

A) Maximum secured and unsecured loan amounts to one borrower or associated group of borrowers under subsections (f) and (h);

B) Maximum aggregate unsecured member business loan limit under subsection (h)(2);

C) Collateral requirements under subsection (h), including, without limitation, the requirement for personal liability and guarantee;

D) The aggregate amount of construction loans and the minimum equity interest in construction loans under subsection (i); and

E) Any appraisal requirements imposed by this Part ~~190~~ with respect to loans secured by real estate.

2) A request for a waiver must be submitted in writing to the Division. The waiver request must contain the following:

A) A copy of the credit union's business lending policy;

B) The waiver sought;

C) An explanation of the higher limits sought (if applicable);

D) Documentation supporting the credit union's ability to manage this activity; and

E) An analysis of the credit union's prior experience in making member business loans, including the credit union's history of loan losses and delinquency, volume and cyclical or seasonal patterns, diversification, concentrations of credit to one borrower or group of borrowers in excess of 15% of net worth, underwriting standards and practices, types of loans grouped by purpose and collateral, and the qualifications of personnel responsible for underwriting and administering member business loans.

3) The Division shall consider standard criteria when determining whether to grant a waiver requested by a credit union as provided in subsection (j)(1). The criteria include but are not limited to:

A) The two most recent Division examinations;

B) The credit union's reserve/equity position;

C) The credit union's current delinquency and loan loss trends; and

D) The credit union's Business Lending Policy and Procedures.

4) The Division shall respond to requests for waivers as follows:

A) The Division shall inform the credit union in writing of the date the written request for waiver was received.

B) Approval of waivers shall be given in writing within 45 calendar days from receipt of the waiver request and supporting documents listed in subsection (j)(2), if it is determined by the Division that the waiver will not adversely affect the credit union's financial position.

C) A~~If a~~ waiver approved by the Division for a federally insured state chartered credit union must also be approved by ~~the National Credit Union Administration (~~NCUA~~)~~.~~,~~ Following its approval of a waiver for a credit union, the Division shall forward the waiver

request and supporting documents to the NCUA regional director~~Regional Director~~ and provide the credit union with written notice of the date the request was forwarded. A waiver is not effective for the credit union until it is approved by the NCUA regional director.

D) If a waiver request does not require NCUA approval, the credit union may assume approval of the waiver request if it does not receive notification within 45 days after the date the request was received by the Division.

k) Recordkeeping Requirements
Business loans must be separately identified in a credit union's records and separately identified in the aggregate on a credit union's financial reports.

l) Allowance for Loan Losses for Business Loans

1) Allowance for Loan Losses for Business Loans will be determined in accordance with GAAP and the following standards, unless those standards are inconsistent with GAAP~~accounted for by the credit union as follows~~:

A) Substandard Loans – A substandard loan is one that is inadequately protected by the current sound worth and paying capacity of the obligor or of the collateral pledged. Loans classified substandard have a well-defined weakness or weaknesses that jeopardize the liquidation of the debt. They are characterized by the distinct possibility that the credit union will sustain some loss if the deficiencies are not corrected. Loans listed in this category shall generally be listed in a range from zero to under 50% potential loss.

B) Doubtful Loans – A loan classified doubtful has all the weaknesses inherent in a loan classified substandard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions, and values, highly questionable and improbable. The possibility of loss is extremely high, but because of certain important and reasonable specific pending factors that may work to the advantage and

strengthening of the loan, its classification as an estimated loss is deferred until a more exact status may be determined. Pending factors include: proposed merger, acquisition, or liquidation actions; capital injection; perfecting liens on collateral; and refinancing plans. Loans in this category shall be listed at a minimum 50% potential loss.

C) Loss Loans – Loans classified loss are considered uncollectible and of such little value that their continuance as loans on the credit union balance sheet is not warranted. This classification does not necessarily mean that the loan has absolutely no recovery or salvage value, but rather, it is not practical or desirable to defer writing off the asset even though partial recovery may occur in the future. Loans in this category shall be listed at 100% potential loss.

D) Loans may be excluded from the "loss loans" category and classified as either substandard or doubtful if there is evidence of collectability~~collectibility~~. Evidence of collectability~~collectibility~~ shall include, without limitation, the following collection activities and remedies:

i) Execution and filing of an enforceable reaffirmation agreement on the loan in a Chapter 7 bankruptcy (see 11 USC 701 et seq.) proceeding prior to completion of the Department's~~Division's~~ loan analysis in any statutory examination of the credit union.

ii) Receipt of payments on the loan in a Chapter 13 bankruptcy (see 11 USC 1301 et seq.) within 180 days after the confirmation of the plan; or, if the plan stipulates repayment of the loan in full but payments have not yet been disbursed to the credit union, the credit union has determined from the Trustee that plan payments are being made on a timely basis to the Trustee.

iii) Receipt of payments on the loan in a Chapter 11 bankruptcy reorganization (see 11 USC 1101 et seq.) or Chapter 12 bankruptcy family farm reorganization (see 11

USC 1201 et seq.) within 180 days after the confirmation of the plan.

iv) Voluntary repayment of the loan pursuant to section 524(f) of the federal Bankruptcy Code (11 USC 524(f)).

v) Collection of the loan pursuant to repossession of collateral without judicial process, or by replevin, detinue, forcible entry and detainer or mortgage foreclosure proceedings.

vi) Collection of the loan pursuant to post-judgment enforcement remedies, including wage deduction, garnishment and turnover orders entered in citation to discover assets supplementary proceedings.

vii) The entry of a judgment pay plan order providing for repayment of the loan in a judicial proceeding.

viii) Documented evidence of repayment of that portion of the loan covered by collateral protection or other insurance policies.

ix) Documentation evidence of periodic payments on a consistent basis in an amount sufficient to retire the loan balance in a reasonable time.

2) Non-delinquent loans may be classified in the above categories by the Division, dependent upon an evaluation of factors, including, but not necessarily limited to, the adequacy of the credit union's analysis and documentation of the loan application~~,~~ and the credit union's collateral requirements. Subsection (d)(2) contains analysis and documentation requirements.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.180 Investments**

The board~~Board~~ of directors~~Directors~~ of a credit union shall use the following procedures in managing and investing funds not being used for loans to members.

a) The board~~Board~~ must develop a written investment policy that~~which~~ includes, at a minimum:

1) persons authorized to take investment actions and the kinds of investments permitted the designated person or committee;

2) limits by amount and term of the investments;

3) procedure for approval of all broker or advisor relationships;

4) procedure for safekeeping of securities.

b) All investments are to be recorded on the books and records in accordance with GAAP~~generally accepted accounting principles~~ and so as to enable the Division to readily ascertain the financial condition of the credit union.

c) Investments are limited to the direct purchase of securities listed in Section 59 of the Act, and common trust or mutual funds whose investment authority is limited solely to securities and investments listed in Section 59~~ of the Illinois Credit Union Act~~.

d) Credit unions may invest in privately issued collateralized mortgage obligations (CMOs). A~~ a~~ CMO is a corporate bond secured by mortgage pass-through certificates of the Government National Mortgage Association or the Federal National Mortgage Association (FNMA), provided the~~such~~ obligations receive the highest rating (either AAA or AA) by Standard and Poors ~~rating~~ or another comparable rating service.

e) Credit unions are not authorized to engage in speculative investment activities or transactions, including but not limited to:

1) short sales of securities;

2) adjusted trades;

3) standby commitments;

4) cash forward agreements in excess of 120 days from the trade date;

5) futures contracts; ~~or~~

6) the buying and carrying of securities on margin through the use of borrowed funds; or~~.~~

7) investment in fixed and variable annuities, except as provided in Section 59(c) of the Act.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.185 Investment in "Other Financial Institutions"**

For purposes of Section 59(a)(7) of the Act, the term "other financial institution" means a bank established under the laws of this or any other state or established under the laws of the United States, a savings and loan association or savings bank established under the laws of this or any other state or established under the laws of the United States, a credit union established under the laws of this or any other state or established under the laws of the United States, a licensee under the Sales Finance Agency Act [205 ILCS 660] or an insurance company.

(Source: Added at 36 Ill. Reg. _____, effective _____)

**Section 190.190 Liquidation**

A credit union may enter liquidation through actions initiated by its board~~Board~~ of directors~~Directors~~ to voluntarily dissolve or by actions initiated by the Secretary~~Director~~ of the Department~~Division of Financial Institutions~~ to involuntarily dissolve and be liquidated by a Liquidating Agent of one person or a committee under the following procedures:

a) Voluntary Liquidation:

1) After completing the requirements in Section 62 of the ~~Illinois Credit Union~~ Act, the Liquidating Agent~~,~~ must furnish a fidelity bond in compliance with section~~38 Ill. Adm. Code~~ 190.120.

2) Upon receipt and approval of the fidelity bond, the Secretary~~Director~~ shall issue a Certificate of Voluntary Dissolution attesting to ~~the~~ compliance with Section 62 of the ~~Illinois Credit Union~~ Act, stating the names of the Liquidating~~Liquidation~~ Agent~~,~~ and authorizing the taking of possession

and control of the books, records and assets of the credit union for the purpose of conserving and collecting the assets, paying all indebtedness and distributing the remaining assets to the membership. Certified copies of the Certificate of Voluntary Dissolution shall be furnished to the Liquidating Agent for ~~his~~ use in securing access to the credit union's funds in depositories, withdrawal of investments or for any other purpose to carry out the liquidation.

b) Involuntary Liquidation:

1) Under the provisions of Sections~~Section~~ 61 and ~~Section~~ 62 of the ~~Illinois Credit Union~~ Act, the Secretary~~Director~~ shall issue to the credit union by certified mail, with a copy to each director, an order for Possession and Control for purpose of liquidation.

2) A Liquidating Agent (person or committee) shall be appointed by the Secretary~~Director~~ to carry out liquidation under the direction and control of the Secretary~~Director~~. Except when~~where~~ the Liquidating Agent is the NCUA or other insurer~~insuror~~ or agent under the share insurance interest, the procedures listed in subsection (c) shall be followed.

c) The liquidation, whether voluntary or involuntary, shall be under the direction of the Secretary~~Director~~ and shall proceed in the following manner:

1) The Certificate shall be promptly filed at the County Recorder's office in the county~~County~~ in which the main office of the credit union is located and the recording information shall be forwarded to the Division.

2) An itemized inventory, in duplicate, as of the date of the Certificate listing the following, shall be prepared to include:

A) all assets;

B) all known liabilities;

C) a list of all members accounts' by name, address, account numbers, share and loan balances, notes payable on file, and security offered;

D) a balance sheet as of the date of the Certificate;

E) a Statement of Income and Expenses as of the date of the Certificate;

F) the name and address of all depositories, including the credit union's account numbers and balance.

3) A signed and dated copy of the items listed in~~under~~ subsections (c)(1) and (c)(2) shall be forwarded to the Division. One copy of each of the ~~above~~ items listed in subsections (c)(1) and (c)(2) is to be retained by the Liquidating Agent.

4) The books and records are to be kept posted currently throughout the liquidation.

5) All funds received shall be promptly deposited in the credit union's depositories. The Secretary~~Director~~ shall approve a change in depositories upon receipt of written request from the agent stating the reason for the change.

6) All disbursement of funds shall have prior approval of the Division and be in accordance with the priority established in Section 62(7) of the ~~Illinois Credit Union~~ Act. The Division shall approve in writing disbursement of funds during liquidation upon written request from the Liquidating Agent~~liquidating agent~~. Each request must contain a current financial statement and a total dollar amount to be distributed pro rata to the shareholders~~share-holders~~.

7) Monthly reports, consisting of a balance sheet, statement of income and expense, and an analysis of funds received and expended, shall be prepared on forms furnished by the Division as of each month's end and forwarded to the Division on or before the 15th of the subsequent month.

8) An initial report on all accounts turned over to an attorney and/or collection agency for collection is to be forwarded to the Division with subsequent periodic reports showing collection activity on these accounts.

9) Subject to the prior approval of the Secretary~~Director~~, the Liquidating

Agent may prosecute and defend all suits or intervene and execute all necessary deeds, releases or other instruments necessary to consummate any sale of real estate or personal property, or compromise any debt or claim to the same effect as if the instruments were executed by the officers of the credit union. The agent shall request approval, in writing, detailing the specific instances. The Secretary~~Director~~ shall base his or her approval on maximizing the return of funds and protecting the interests of the shareholders.

10) Compensation paid for the Liquidating Agent's services shall be determined by the Secretary~~Director~~, so as to maximize the return of shareholders'~~shareholder's~~ funds and to provide reasonable compensation for the professional services required.

11) All expenses incurred in the liquidation shall be paid out of the funds of the credit union.

12) Completion of the liquidation shall be in compliance with provisions of Section 62 of the ~~Illinois Credit Union~~ Act.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.200 Conversion of Charter**

a) Conversion from a State of Illinois chartered credit union to a credit union chartered by NCUA~~the National Credit Union Administration~~ or by a state regulatory authority of credit unions of another state shall be authorized subject to the following requirements:

1) The proposal for the conversion of charter is approved by resolution of the board~~Board~~ of directors~~Directors~~.

2) Written notification is given of the intent to convert to the Secretary ~~Director~~ at least 30 days prior to the mailing to the members of the Notice of Meeting at which the question of conversion is to be voted.

3) Evidence is furnished to the Secretary~~Director~~ that ~~the~~ NCUA~~National Credit Union Administration~~ or the state regulatory authority for credit unions in the other state is agreeable to the conversion proposal.

4) The conversion proposal is approved by ⅔ of the members present or voting. Notice of the meeting must be given in accordance with Section 19(1) of the ~~Illinois Credit Union~~ Act and include:

A) the time, place~~,~~ and purpose of the meeting;

B) a brief and accurate statement of the reasons for or~~the~~ against the proposed conversion, including any effects it could have on the shareholdings of members and the policies and practices of the credit union;

C) a ballot and details of how the ballot may be voted.

5) Proxy voting is not permitted. Ballots will be distributed or mailed to the members and the returned ballots shall be counted with those ballots of members present at the meeting. Ballots must be distributed or mailed at least 7 days before the date of the meeting. All ballots postmarked on or before the date of the meeting shall be included in the final vote computation.

6) A notarized report attesting to the accuracy of the voting shall be forwarded to the Secretary~~Director~~ within 10 days after the meeting and shall contain~~containing~~ the following information:

A) date of mailing and/or posting notice of the meeting;

B) date of members'~~members~~ meeting or any adjourned meetings;

C) number of members;

D) number of members present at meeting;

E) number of members voting for the proposal in person at the meeting and the number of members not at the meeting voting for the proposal by ballot.

7) If ⅔ of the voting members approve the proposal, and the appropriate federal or other state regulatory agency approves the conversion, a request

to convert the charter shall be sent to the Secretary within 10 days after~~of~~ the members' meeting~~ to the Director~~. If the credit union is not subject to any formal supervisory restraints or other supervisory proceedings and if the conversion is in the best interests of the members, the Secretary~~Director~~ shall issue a Certificate of Conversion approving the change of chartering authority.

8) The credit union shall return its Illinois charter and Articles of Incorporation to the Secretary~~Director~~ and shall record the Certificate of Conversion in the County Recorder's Office in the Illinois county where the credit union's office is located and forward the recording information to the Secretary~~Director~~. The converted credit union shall be merely a continuation of the State of Illinois credit union under a new name and new jurisdiction and with ~~such~~ revision of its corporate structure ~~as is~~ necessary for its proper operation under the new jurisdiction. The effective date of the charter conversion will be the date that the Certificate of Conversion is recorded at the County Recorder's Office.

b) Conversion from a federally chartered credit union or from a credit union chartered by another state to a State of Illinois chartered credit union shall be authorized subject to the following requirements:

1) complying with all requirements of the Federal Credit Union Act or the applicable Act of the state under which it is organized;

2) filing with the Secretary~~Director~~ evidence of that compliance, which shall include a copy of the most recent examination by the regulatory agency, correspondence on exceptions noted, and a statement that the credit union is not subject to any formal supervisory restraint or proceeding that~~which~~ would be circumvented by the conversion;

3) filing with the Secretary~~Director,~~ Articles of Incorporation and By-laws as required by Section 2 of the ~~Illinois Credit Union~~ Act.

c)~~4)~~ The Secretary~~Director~~ may require that an examination of the credit union be conducted by the Division to verify the financial and operating condition of the credit union. The Secretary~~He or she~~ shall base his or her decision on the recency of the last examination, the nature of the exceptions noted, and the scope of the examination. A fee may be assessed for the~~such~~ examination not to exceed the

limits as set forth either in Section 12 of the Illinois Credit Union Act or Section 190.50, as appropriate.

d)5) Upon receipt of the materials listed in subsections (b)(2) and (b)(3)above, the SecretaryDirector shall determine if all requirements for conversion of the credit union have been met, and, if affirmative, the SecretaryDirector shall issue a Certificate of Approval thatwhich must be filed as provided under Section 2(4) of the Illinois Credit Union Act. The effective date of the conversion will be the date, after the Certificate of Approval is recorded, that the credit unionit ceases to be a federal credit union or a credit union chartered by another state.

e)6) The converted credit union shall be vested with all of the assets and is responsible for all of the obligations of its predecessor.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.220 Registration of Out of State Credit Unions**

A credit union organized and duly chartered as a credit union in another state shall:

a) Registershall register with the SecretaryDirector prior to operating in this State, on a form specified by the SecretaryDirector, which shall include or be accompanied by the following information:

1) the name of the credit union and the county or state under which it is organized;

2) the common bond or field of membership the credit union is authorized to serve;

3) the proposed location of any branch or service center within this State; and

4) the credit union's most recent examination report and audited financial statement.

b) Updateshall update the information provided under subsection (a)(2) within 30 days after receiving approval of a change in common bond or field of membership from the credit union's chartering agency, on a form specified by the

SecretaryDirector.

c) Updateshall update the information provided under subsection (a)(3) as to any proposed change in location or additional location for any branch or service center within this State, on a form specified by the SecretaryDirector.

d) Payshall pay to the Director an annual registration fee of $1000$500, plus $250$100 for each branch facility located in Illinois. The fee shall be payable to the Secretary and Director by January 1 of each calendar year, for the current calendar year.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART B: HIGH RISK HOME LOANS

**Section 190.500 Definitions**

"Approved credit counselorCredit Counselor" means a credit counselor as approved by the SecretaryDirector of the Division.

"Good faith" means honesty in fact in the conduct of the transaction.

"Home equity loan" means any loan secured by the borrower's primary residence, when where the proceeds are not used as purchase money for the residence.

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded transaction, not otherwise included in 12 CFR 226.4.

"Subject loan" is the term used to describe any loan to which this Subpart applies,

pursuant to Section 190.505.

"Total loan amount" has~~is~~ the same meaning as ascribed ~~the term used~~ in 12 CFR 226.32~~,~~ and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.505 Applicability of Rule**

a) This Subpart shall apply to a home equity loan in which:

1)~~a)~~ At the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the 15th ~~fifteenth~~ day of the month immediately preceding the month in which the application for the loan is received by the lender; or

2)~~b)~~ The total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or $800. The $800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

b) However, this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226~~(2000, no subsequent amendments or editions included)~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.510 Good Faith Requirements**

a) Any disclosure or action required by this Subpart shall be made in good faith.

b) No lender shall accept a fee or charge for a subject loan application unless the licensee is able to demonstrate to the Secretary~~Director~~ that, if its subject loan requirements are met, there is a reasonable likelihood that a loan commitment will be issued for the~~such~~ loan for the amount, term, rate, charges and other conditions

set forth in the loan application and the applicable disclosures and documents required and that the loan has a reasonable likelihood of being repaid by the applicant.

c) A lender who has accepted an application for a subject loan shall make a good faith effort to process the application within the time specified in the loan application.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.555 Verification of Ability to Repay**

No lender shall make a subject loan prior to verifying the borrower's ability to repay the loan. The~~Such~~ verification shall require, at a minimum, the following:

a) The borrower prepares and submits to the lender a personal income and expense statement in a form prescribed by the Secretary~~Director~~.

b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.

c) A credit report is obtained regarding the borrower.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.570 Mortgage Awareness Program**

a) The Mortgage Awareness Program is a counseling and educational program that is provided by the Secretary~~Director~~.

b) The minimum requirements for the core curriculum of the Mortgage Awareness Program shall include:

1) Explanation of the amount financed;

2) Explanation of the finance charge;

3) Explanation of the annual percentage rate;

4) Explanation of the total payments;

5) Explanation of the loan costs, including broker's fees, finance charges, points, origination fees and all other charges and fees;

6) Explanation of any right of rescission;

7) Explanation of foreclosure procedures;

8) Explanation of the debt ratio, including total debt to income ratio, loan debt to income ratio, and loan debt to value of residence;

9) Explanation of adjustable rate mortgage;

10) Explanation of balloon payments;

11) Explanation of credit options;

12) Explanation of each item that appears on the good faith estimate;

13) Explanation of pre-payment penalties.

c) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet, on forms provided by the Secretary~~Director~~.

d) Prior to issuing a certificate of completion, counselors shall privately meet and discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or is contemplating.

e) Counseling session attendees must also be provided with a brochure that contains information covered by the Mortgage Awareness Program.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 190.575 Offer of Mortgage Awareness Program**

a) Any lender, prior to making a subject loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.

b) No lender shall offer less favorable loan terms to a borrower due to a borrower's participation in a Mortgage Awareness Program.

c) The borrower may waive participation in the program, provided that the~~such~~ waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (a) and that the~~such~~ waiver is in writing in a form approved by the Secretary~~Director~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Temporary Assistance for Needy Families

2) Code Citation: 89 Ill. Adm. Code 112

3)

| Section Number: | Proposed Action: |
|---|---|
| 112.302 | Amendment |

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

5) A Complete Description of the Subjects and Issues involved: This rulemaking requires the Department to approve EZ REDE cases for 12 months rather than six months. It also requires the Department to send and process an Interim Report Form in the 5th month of the approval period. This change is a result of the USDA FNS corrective action for the agency to increase the timeliness of processing SNAP applications and is a state option in federal regulations. This change should reduce work for staff and allow them to focus on the timely processing of SNAP applications.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

| Section Number | Proposed Action | Illinois Register Citation |
|---|---|---|
| 112.131 | Amendment | 36 Ill. Reg. 4658; March 30, 2012 |

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 date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

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

217/785-9772

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because it was not anticipated by the Department when two most recent regulatory agendas were published.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

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

PART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section
112.1 Description of the Assistance Program and Time Limit
112.2 Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
112.3 Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
112.5 Incorporation by Reference
112.6 The Family Violence Option

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
112.8 Caretaker Relative
112.9 Client Cooperation
112.10 Citizenship
112.20 Residence
112.30 Age
112.40 Relationship
112.50 Living Arrangement
112.52 Social Security Numbers
112.54 Assignment of Medical Support Rights
112.60 Basis of Eligibility
112.61 Death of a Parent (Repealed)
112.62 Incapacity of a Parent (Repealed)
112.63 Continued Absence of a Parent (Repealed)
112.64 Unemployment of the Parent (Repealed)
112.65 Responsibility and Services Plan
112.66 Alcohol and Substance Abuse Treatment
112.67 Restriction in Payment to Households Headed by a Minor Parent
112.68 School Attendance Initiative
112.69 Felons and Violators of Parole or Probation

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section
112.70 Employment and Work Activity Requirements
112.71 Individuals Exempt from TANF Employment and Work Activity Requirements
112.72 Participation/Cooperation Requirements
112.73 Adolescent Parent Program (Repealed)
112.74 Responsibility and Services Plan
112.75 Teen Parent Personal Responsibility Plan (Repealed)
112.76 TANF Orientation
112.77 Reconciliation and Fair Hearings
112.78 TANF Employment and Work Activities
112.79 Sanctions
112.80 Good Cause for Failure to Comply with TANF Participation Requirements
112.81 Responsible Relative Eligibility for JOBS (Repealed)
112.82 Supportive Services
112.83 Teen Parent Services
112.84 Employment Retention and Advancement Project
112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section
112.86 Project Advance (Repealed)
112.87 Project Advance Experimental and Control Groups (Repealed)
112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.90 Project Advance Sanctions (Repealed)
112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
112.93 Individuals Exempt From Project Advance (Repealed)
112.95 Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section
112.98 Exchange Program (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section
112.100 Unearned Income
112.101 Unearned Income of Parent
112.105 Budgeting Unearned Income
112.106 Budgeting Unearned Income of Applicants
112.107 Initial Receipt of Unearned Income
112.108 Termination of Unearned Income
112.110 Exempt Unearned Income
112.115 Education Benefits
112.120 Incentive Allowances
112.125 Unearned Income In-Kind
112.126 Earmarked Income
112.127 Lump-Sum Payments
112.128 Protected Income (Repealed)
112.130 Earned Income
112.131 Earned Income Tax Credit
112.132 Budgeting Earned Income
112.133 Budgeting Earned Income of Employed Applicants
112.134 Initial Employment
112.135 Budgeting Earned Income For Contractual Employees
112.136 Budgeting Earned Income For Non-contractual School Employees
112.137 Termination of Employment
112.138 Transitional Payments (Repealed)
112.140 Exempt Earned Income
112.141 Earned Income Exemption
112.142 Exclusion from Earned Income Exemption
112.143 Recognized Employment Expenses
112.144 Income from Work-Study and Training Programs
112.145 Earned Income From Self-Employment
112.146 Earned Income From Roomer and Boarder
112.147 Income From Rental Property
112.148 Payments from the Illinois Department of Children and Family Services
112.149 Earned Income In-Kind
112.150 Assets
112.151 Exempt Assets
112.152 Asset Disregards

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

112.153 Deferral of Consideration of Assets
112.154 Property Transfers (Repealed)
112.155 Income Limit
112.156 Assets for Independence Program

SUBPART H: PAYMENT AMOUNTS

Section
112.250 Grant Levels
112.251 Payment Levels
112.252 Payment Levels in Group I Counties
112.253 Payment Levels in Group II Counties
112.254 Payment Levels in Group III Counties
112.255 Limitation on Amount of TANF Assistance to Recipients from Other States (Repealed)

SUBPART I: OTHER PROVISIONS

Section
112.300 Persons Who May Be Included in the Assistance Unit
112.301 Presumptive Eligibility
112.302 Reporting Requirements for Clients with Earnings
112.303 Budgeting
112.304 Budgeting Schedule
112.305 Strikers
112.306 Foster Care Program
112.307 Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96
112.308 Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
112.309 Institutional Status
112.310 Child Care for Representative Payees
112.315 Young Parents Program (Renumbered)
112.320 Redetermination of Eligibility
112.330 Extension of Medical Assistance Due to Increased Income from Employment
112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

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SUBPART J: CHILD CARE

Section
112.350 Child Care (Repealed)
112.352 Child Care Eligibility (Repealed)
112.354 Qualified Provider (Repealed)
112.356 Notification of Available Services (Repealed)
112.358 Participant Rights and Responsibilities (Repealed)
112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
112.364 Rates of Payment for Child Care (Repealed)
112.366 Method of Providing Child Care (Repealed)
112.370 Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

Section
112.400 Transitional Child Care Eligibility (Repealed)
112.404 Duration of Eligibility for Transitional Child Care (Repealed)
112.406 Loss of Eligibility for Transitional Child Care (Repealed)
112.408 Qualified Child Care Providers (Repealed)
112.410 Notification of Available Services (Repealed)
112.412 Participant Rights and Responsibilities (Repealed)
112.414 Child Care Overpayments and Recoveries (Repealed)
112.416 Fees for Service for Transitional Child Care (Repealed)
112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency

amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended

at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency

amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 598, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 942, effective January 6, 1999; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1682, effective January 20, 1999; emergency amendment at 23 Ill. Reg. 5881, effective May 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6958, effective May 30, 1999; amended at 23 Ill. Reg. 7091, effective June 4, 1999; amended at 23 Ill. Reg. 7896, effective July 1, 1999; emergency amendment at 23 Ill. Reg. 8672, effective July 13, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 10530, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12648, effective September 27, 1999; amended at 23 Ill. Reg. 13898, effective November 19, 1999; amended at 24 Ill. Reg. 289, effective December 28, 1999; amended at 24 Ill. Reg. 2348, effective February 1, 2000; amended at 25 Ill. Reg. 10336, effective August 3, 2001; emergency amendment at 25 Ill. Reg. 11584, effective September 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14865, effective November 1, 2001; amended at 26 Ill. Reg. 138,

effective January 1, 2002; amended at 26 Ill. Reg. 924, effective January 15, 2002; emergency amendment at 26 Ill. Reg. 3329, effective February 19, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9803, effective June 24, 2002; amended at 26 Ill. Reg. 10492, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10994, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17182, effective November 15, 2002; amended at 27 Ill. Reg. 4545, effective February 28, 2003; amended at 27 Ill. Reg. 7240, effective April 7, 2003; amended at 27 Ill. Reg. 18417, effective November 20, 2003; amended at 28 Ill. Reg. 1090, effective December 31, 2003; amended at 28 Ill. Reg. 5655, effective March 22, 2004; amended at 29 Ill. Reg. 5473, effective April 1, 2005; amended at 29 Ill. Reg. 8161, effective May 18, 2005; emergency amendment at 29 Ill. Reg. 16008, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; amended at 30 Ill. Reg. 9331, effective May 8, 2006; amended at 30 Ill. Reg. 11202, effective June 12, 2006; amended at 31 Ill. Reg. 6968, effective April 30, 2007; amended at 31 Ill. Reg. 10462, effective July 6, 2007; amended at 31 Ill. Reg. 15080, effective October 24, 2007; amended at 32 Ill. Reg. 2767, effective February 7, 2008; emergency amendment at 32 Ill. Reg. 10607, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17167, effective October 20, 2008; peremptory amendment at 32 Ill. Reg. 18051, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4977, effective March 19, 2009, for a maximum of 150 days; emergency expired August 15, 2009; emergency amendment at 33 Ill. Reg. 7320, effective May 21, 2009, for a maximum of 150 days; emergency expired October 17, 2009; amended at 33 Ill. Reg. 12763, effective September 8, 2009; amended at 33 Ill. Reg. 13831, effective September 17, 2009; amended at 33 Ill. Reg. 16828, effective November 30, 2009; emergency amendment at 34 Ill. Reg. 6930, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 10085, effective July 1, 2010; amended at 35 Ill. Reg. 998, effective December 28, 2010; emergency amendment at 35 Ill. Reg. 6933, effective April 6, 2011, for a maximum of 150 days; emergency expired September 2, 2011; amended at 35 Ill. Reg. 17082, effective October 5, 2011; amended at 35 Ill. Reg. 18739, effective October 28, 2011; amended at 36 Ill. Reg. _____, effective _____.

SUBPART I: OTHER PROVISIONS

**Section 112.302 Reporting Requirements for Clients with Earnings**

a) All assistance units that contain a member with budgetable earnings must submit a written Redetermination Form~~redetermination form~~ to the Department every 12~~six~~ months. In the 5th month between redeterminations, the client will be sent an Interim Report Form. The client is required to complete, sign and return the Interim Report Form by the due date on the form. Clients with budgetable

earnings must report all changes at redetermination and on the Interim Report Form.

b) All units that contain a member with budgetable earnings shall have benefits calculated for six months by considering income and attendant circumstances on a prospective basis.

c) Earnings shall be budgeted prospectively for a six-month period based on the Redetermination Form or the Interim Report Form~~redetermination form~~. Income averaging will be used to determine the amount of income to budget for a six-month period.

d) Clients who experience an increase in income above the amount anticipated will not be referred for an overpayment based on the increased income.

e) At intake, the actual amount of income received in the Initial Prorated Entitlement (IPE) period will be used to determine the IPE amount. The first regular roll payment amount will be computed using income averaging.

f) When the redetermination or the Interim Report~~redetermination~~ has been completed, the Department will determine if eligibility continues and process any adjustments to the payment. The Department will notify the caretaker relative of any changes in the payment and the reason or reasons for the change.

g) If the Department does not receive the Redetermination Form or the Interim Report Form~~redetermination~~ or receives only an incomplete Redetermination Form or Interim Report Form~~redetermination form~~, cash assistance may be terminated. If the form is incomplete, the Department will send the client a notice advising of the incomplete form and that the client has 10 days to complete the form. If the family is found ineligible or eligible for a grant less than that of the prior month, the Department will promptly notify the client of the right to a fair hearing and the right to have assistance reinstated. If a hearing is requested on or before the date of change or within 10~~ten~~ calendar days after the date of notice, whichever is later, assistance will be reinstated to the level of the prior month.

h) All reported changes will be acted upon. For changes reported other than at redetermination or on the Interim Report Form~~redetermination~~, if the change results in an increase in benefits, the increase will be effective for the month following the month the change is reported. If the change results in a decrease in

benefits, the decrease will be effective the first month that can be affected following the end of the 10-day timely notice period.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Supplemental Nutrition Assistance Program (SNAP)

2) Code Citation: 89 Ill. Adm. Code 121

3)

| Section Numbers: | Proposed Action: |
|---|---|
| 121.10 | Amendment |
| 121.125 | Amendment |

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

5) A Complete Description of the Subjects and Issues involved: This rulemaking requires the Department to approve EZ REDE cases for 12 months rather than six months. It also requires the Department to send and process an Interim Report Form in the 5th month of the approval period. This change is a result of the USDA FNS corrective action for the agency to increase the timeliness of processing SNAP applications and is a state option in federal regulations. This change should reduce work for staff and allow them to focus on the timely processing of SNAP applications.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

| Section Number | Proposed Action | Illinois Register Citation |
|---|---|---|
| 121.50 | Amendment | 36 Ill. Reg. 4670; March 30, 2012 |

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 date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

217/785-9772

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: it was not anticipated by the Department when the two most recent regulatory agendas were published.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

PART 121
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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

121.30 Unearned Income
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
121.57 Assets
121.58 Exempt Assets
121.59 Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section
121.60 Net Monthly Income Eligibility Standards
121.61 Gross Monthly Income Eligibility Standards
121.62 Income Which Must Be Annualized
121.63 Deductions from Monthly Income
121.64 Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section
121.70 Composition of the Assistance Unit
121.71 Living Arrangement
121.72 Nonhousehold Members
121.73 Ineligible Household Members
121.74 Strikers
121.75 Students
121.76 Categorically Eligible Households

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section
121.80 Fraud Disqualification (Renumbered)
121.81 Initiation of Administrative Fraud Hearing (Repealed)
121.82 Definition of Fraud (Renumbered)
121.83 Notification To Applicant Households (Renumbered)
121.84 Disqualification Upon Finding of Fraud (Renumbered)
121.85 Court Imposed Disqualification (Renumbered)
121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
121.91 Monthly Reporting (Repealed)
121.92 Budgeting
121.93 Issuance of Food Stamp Benefits
121.94 Replacement of the EBT Card or SNAP Benefits
121.95 Restoration of Lost Benefits
121.96 Uses for SNAP Benefits
121.97 Supplemental Payments
121.98 Client Training Brochure for the Electronic Benefits Transfer (EBT) System
121.105 State Food Program (Repealed)
121.107 New State Food Program
121.108 Transitional Food Stamp (TFS) Benefits
121.117 Farmers' Market Technology Improvement Program
121.120 Redetermination of Eligibility
121.125 Simplified Reporting ~~Redeterminations~~
121.130 Residents of Shelters for Battered Women and their Children
121.131 Fleeing Felons and Probation/Parole Violators
121.135 Incorporation By Reference
121.136 Food and Nutrition Act of 2008
121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
121.145 Quarterly Reporting (Repealed)

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section
121.150 Definition of Intentional Violations of the Program
121.151 Penalties for Intentional Violations of the Program
121.152 Notification To Applicant Households
121.153 Disqualification Upon Finding of Intentional Violation of the Program
121.154 Court Imposed Disqualification

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section
121.160 Persons Required to Participate
121.162 Program Requirements
121.163 Vocational Training
121.164 Orientation (Repealed)
121.165 Community Work
121.166 Assessment and Employability Plan (Repealed)
121.167 Counseling/Prevention Services
121.170 Job Search Activity
121.172 Basic Education Activity
121.174 Job Readiness Activity
121.176 Work Experience Activity
121.177 Illinois Works Component (Repealed)
121.178 Job Training Component (Repealed)
121.179 JTPA Employability Services Component (Repealed)
121.180 Grant Diversion Component (Repealed)
121.182 Earnfare Activity
121.184 Sanctions for Non-cooperation with Food Stamp Employment and Training
121.186 Good Cause for Failure to Cooperate
121.188 Supportive Services
121.190 Conciliation
121.200 Types of Claims (Recodified)
121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203 Collecting Claim Against Households (Recodified)
121.204 Failure to Respond to Initial Demand Letter (Recodified)
121.205 Methods of Repayment of Food Stamp Claims (Recodified)
121.206 Determination of Monthly Allotment Reductions (Recodified)
121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
121.208 Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section
121.220 Work Requirement Components (Repealed)
121.221 Meeting the Work Requirement with the Earnfare Component (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

121.222 Volunteer Community Work Component (Repealed)
121.223 Work Experience Component (Repealed)
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; amended at 35 Ill. Reg. 17120, effective October 5, 2011; amended at 35 Ill. Reg. 18780, effective October 28, 2011; amended at 35 Ill. Reg. 19278, effective November 8, 2011; amended at 35 Ill. Reg. 19778, effective December 5, 2011; amended at 36 Ill. Reg. _____, effective _____.

SUBPART A: APPLICATION PROCEDURES

**Section 121.10 Interviews**

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

b) Interview Process

1) The individual interviewed may be the head of the household, spouse, any other adult member of the household who is sufficiently familiar with the household's circumstances to be able to assist in the determination of eligibility, or an authorized representative (see Section 121.1(e)(1) and (2)). The applicant may bring any person he/she chooses to the interview.

Prior to beginning the interview, the applicant shall indicate which persons are not applying for SNAP benefits because they are unable or unwilling to provide alien status verification.

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

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

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

c) Waiver of Office Interviews

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

2) The office interview shall also be waived for any household:

A) containing a household member who is employed; or

B) on a case-by-case basis for any household that is unable to appoint an authorized representative and that has no household members able to come to the local office because of transportation difficulties or similar hardships that the Department determines warrants a waiver of the office interview. These hardship conditions include, but are not limited to:

i) illness;

ii) care of household member;

iii) hardships due to residency in a rural area;

iv) prolonged severe weather;

v) training hours that prevent the household from participating in an in-office interview.

3) The Department will conduct a face-to-face interview if the household requests one.

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

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

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

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

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

**Section 121.125 Simplified Reporting Redeterminations**

a) Non-assistance SNAP only households, SNAP households with a member who has earned income (see Section 121.40(b)), and all family~~Family~~ health plan~~Care~~ SNAP households ~~(see Section 121.40(b))~~, except for those households defined in subsection (b) of this Section, are redetermined every 12~~six~~ months. ~~The six-month redeterminations alternate between a face-to-face interview and a mail-in redetermination form. If an incomplete mail-in redetermination form is received, the Department will send the client a notice advising of the incomplete form and that the client has 10 days to complete the form.~~ If a household chooses to complete its redetermination using the automated phone interview system, a unique confirmation number will verify that the phone interview application was completed and received by the Department.

b) The following households are not included:

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

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

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

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

c) Benefits are calculated prospectively using income~~for six months. Income~~ averaging ~~is used~~ to determine the amount of income to budget ~~for the next six months, based on the information provided on the redetermination form~~.

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

e) In the 5th month of the approval period, the client will be sent an Interim Report Form. The client is required to complete, sign and return the Interim Report Form

by the due date on the form.

f~~e~~) All reported changes will be acted upon. For changes reported other than at redetermination or on the Interim Report Form, if the change~~any reported change that~~ results in an increase in benefits, the increase will be effective for the month following the month the change is reported~~benefits are increased for the fiscal month following the fiscal month of report~~. If ~~benefits decrease as a result of~~ the ~~reported~~ change results in a decrease in benefits, the decrease will be effective~~, benefits are decreased for~~ the first month that can be affected following the end of the 10-day timely notice period.

g~~f~~) For other redetermination rules, see Section 121.120.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Special Transportation

2) Code Citation: 89 Ill. Adm. Code 815

3)

| Section Numbers: | Proposed Action: |
|---|---|
| 815.10 | Amendment |
| 815.20 | Amendment |
| 815.30 | Amendment |
| 815.40 | Amendment |

4) Statutory Authority: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking pertains to the Department of Human Services, Division of Rehabilitation Services - Residential Educational Facilities. This rulemaking gives direction for special transportation for students at the residential schools. This rulemaking is a result of updating all school rules to insure that language is consistent with current terminology and program practices and codifies the current program practice concerning student transportation costs for student home goings.

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.

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 of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

217/557-1544

13) Initial Regulatory Flexibility Analysis:

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

B) Reporting, bookkeeping or other procedures required for compliance: The schools provide reconciliation statements and bills to local school districts for payment of transportation costs.

C) Types of professional skills necessary for compliance: Educators at the School for the Deaf and the School for the Visually Impaired are required to have appropriate certifications to teach students at each school.

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

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 815
SPECIAL TRANSPORTATION

Section
815.10 Special Transportation Services
815.20 Adaptation of Vehicles
815.30 In-Service Training for Transportation Personnel
815.40 Scheduling of Transportation

AUTHORITY: Implementing Sections 3 and 10 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3 and 10].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 13796; amended at 12 Ill. Reg. 11260, effective June 15, 1988; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 10314, effective August 10, 1999; amended at 36 Ill. Reg. _____, effective _____.

**Section 815.10 Special Transportation Services**

a) The local school district shall provide transportation services for students placed in State Schools (Schools) at the beginning and close of the school term, which is applicable to the student's placement.

b) During the annual review of Individualized Education Program Plans~~individualized educational programs~~ (IEP) for students continuing placement at the~~State~~ Schools, an agreement shall be developed between representatives of the Department of Human Services-Division of Rehabilitation Services, representatives of the local school districts and the parents or guardians regarding the mode, frequency~~,~~ and provider of special education transportation services beyond the trips to begin and end the school term.

c) During the IEP meeting, an agreement will be made with the local school district that transportation costs for student home goings throughout the school year shall be the financial responsibility of the local school district. ~~If an initial placement,~~

~~the provision of special education transportation services beyond the trips to begin and end the school term shall be determined and agreed upon between the above named parties during the meeting at which an IEP is developed for the student.~~

d) The School will send to the local school districts a reconciliation statement and bill for payment at the end of the school year or upon withdrawal of the student from the School. ~~The provision for transportation services shall be included in the IEP.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 815.20 Adaptation of Vehicles**

Vehicles utilized by the ~~State~~ School for special transportation at the ~~State~~ School shall be adapted for the specific needs of the students~~children receiving this service~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 815.30 In-Service Training for Transportation Personnel**

Personnel responsible for ~~special~~ transportation at the ~~State~~ School shall be given in-service training that~~which~~ will enable them to understand and appropriately relate to the students~~exceptional children~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 815.40 Scheduling of Transportation**

Transportation~~Special transportation~~ shall be scheduled in such a way that a student's health and educational experiences are not adversely affected.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Lekoteks

2) Code Citation: 89 Ill. Adm. Code 899

3)

| Section Numbers: | Proposed Action: |
|---|---|
| 899.10 | Repeal |
| 899.20 | Repeal |
| 899.30 | Repeal |
| 899.40 | Repeal |

4) Statutory Authority: Implementing and authorized by Sections 3(k) and 3c of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(k) and 3c].

5) A Complete Description of the Subjects and Issues Involved: This proposed repealer pertains to the Department of Human Services, Division of Rehabilitation Services. Due to FY10 budget reductions, funding for the Lekotek program was eliminated. Since the Division will no longer have funding for this program, this rulemaking repeals the rules for the Lekotek program.

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.

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 of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

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

217/557-1544

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 Repealer begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER h: MISCELLANEOUS PROGRAMS

PART 899
LEKOTEKS (REPEALED)

Section
899.10 Purpose
899.20 Selection Criteria
899.30 Determination of Geographical Need
899.40 Conditions of Contract

AUTHORITY: Implementing and authorized by Sections 3(k) and 3c of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(k) and 3c].

SOURCE: Adopted at 14 Ill. Reg. 18567, effective November 5, 1990; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 36 Ill. Reg. _____, effective _____.

**Section 899.10 Purpose**

*The Department* of Human Services (DHS) *shall enter into contracts with public or private agencies for the establishment and continued support of resource, training and counseling centers for families with children with special needs. These centers shall be known as Lekoteks.* (Section 3c of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3c])

**Section 899.20 Selection Criteria**

a) DHS shall enter into contracts to establish or expand services (e.g. family counseling, loaning of toys and resources to families, providing referral information to families) offered by Lekotek centers or satellite offices based upon the availability of state funds.

b) DHS shall only enter into contracts for the purpose of establishing Lekotek centers with those agencies which are:

1) licensed by the National Lekotek Center (NLC), and

2) located in geographical areas designated by DHS in consultation with the NLC as being in need of Lekotek centers, based upon an agency's proposal which complies with Lekotek Manual (July, 1989), National Lekotek Center, 2100 Ridge Avenue, Evanston, Illinois 60204, with no later editions or amendments. The proposal shall also indicate:

A) cooperative efforts with the existing network of service agencies or the community,

B) the credibility of the agency, as determined by community responses to inquiries,

C) the outreach efforts and response to community needs by the agency,

D) the agency's endorsement of the Lekotek philosophy, and

E) the agency's contribution towards project maintenance.

c) The NLC will license an agency submitting an application for licensure, which is reviewed by the staff and trustees of the NLC. The agency must:

1) be a non-profit agency in good standing or a unit of local government,

2) provide evidence of a philosophy that is consistent with the NLC's,

3) agree to adhere to the established guidelines of the NLC for delivery of Lekotek services, and

4) provide evidence of sound fiscal status and financial commitment to the operation of the Lekotek program.

**Section 899.30 Determination of Geographical Need**

DHS in consultation with the NLC shall determine the geographical need for Lekotek centers based upon:

a) a review of the criteria in Section 899.20(b)(2),

b) the size of the population to be served (e.g. a fully funded site will serve 60-70 families per year; a satellite will serve 35-40 families).

**Section 899.40 Conditions of Contract**

As contractors with DHS, the Lekotek centers must agree to comply with:

a) the rules set forth in 89 Ill. Adm. Code 525 (Grants and Contracts) and

b) the conditions set forth in the National Lekotek Center's licensing agreement, which require:

1) that the center acknowledge NLC's exclusive right, title and interest in and to the marks (i.e. the name "Lekotek" and the "BlockLogo") and agrees not to contest the validity of the marks of NLC's ownership thereof and agrees not to be a party, directly or indirectly, to any act disputing the validity or ownership of the marks, or tending to impair the value of the marks or the good will associated therewith;

2) that the center will become qualified for not-for-profit status under the regulations of the Internal Revenue Service, 26 U.S.C. 501(c);

3) that the center will abide by the Lekotek Manual;

4) that the center agrees any and all personnel dealing directly with children and families in teaching, leading or instructional situations must be certified as Lekotek Leaders by NLC;

5) that the client intake procedures approved by NLC will be followed;

6) that NLC's Lekotek Library system, or any other system approved by NLC will be used to maintain the center's library inventory, and that an inventory of library materials will be made at least once a year;

7) that the center will submit a written report containing information on the operations of the center to NLC on a semi-annual basis;

8) that the center consents to periodic evaluation visits by NLC upon reasonable advance notice;

9) that all advertising and promotional material shall be of a style, appearance, and quality consistent and commensurate with NLC's reputation and shall be suitable for public distribution;

10) that the center shall automatically become a member of the National Council of Lekoteks;

11) that the center will pay NLC an annual assessment;

12) that the center shall acquire and maintain insurance from a nationally recognized insurance company which encompasses not only normal and bodily injury and property damage, but also contractual liability coverage for all obligations assumed by the center;

13) that the center agrees to indemnification stipulations;

14) that the center will promptly communicate to NLC all games, ideas, inventions or designs which it develops, created and uses in rendering its services under the marks and in connection with the agreement signed by NLC and the center;

15) that the center will notify NLC any time it becomes aware of use by a third party of the marks;

16) that the center will keep accurate books of account and records covering all financial transactions relating to its operation under the license granted by the NLC.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 300

3)

| Section Numbers: | Proposed Action: |
|---|---|
| 300.670 | Amend |
| 300.690 | Amend |

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: The Skilled Nursing and Intermediate Care Facilities Code regulates skilled nursing and intermediate care facilities, including the records they are required to keep on incidents and accidents, and the procedures for reporting incidents and accidents to the Department. This rulemaking adds a requirement for reporting the death of a resident when that death is the result of an incident or accident. The facility will be required to notify the Department "by phone only", which is described as talking with a Department representative who confirms that the requirement to notify the Regional Office by phone has been met. This rulemaking should ensure that the Department is properly informed when an incident or accident results in the death of a resident.

Section 300.670 is being amended to correct a cross-reference.

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? Yes

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

| Section | Proposed Action | Illinois Register Citation |
|---|---|---|
| 300.1230 | Amend | 35 Ill. Reg. 9927; June 24, 2011 |

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 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: Skilled Nursing Facilities

B) Reporting, bookkeeping or other procedures required for compliance: Yes

C) Types of professional skills necessary for compliance: Nursing; medical

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 known when the most recent Regulatory Agendas were drafted.

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 c: LONG-TERM CARE FACILITIES

PART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
300.110 General Requirements
300.120 Application for License
300.130 Licensee
300.140 Issuance of an Initial License for a New Facility
300.150 Issuance of an Initial License Due to a Change of Ownership
300.160 Issuance of a Renewal License
300.163 Alzheimer's Special Care Disclosure
300.165 Criteria for Adverse Licensure Actions
300.170 Denial of Initial License
300.175 Denial of Renewal of License
300.180 Revocation of License
300.190 Experimental Program Conflicting With Requirements
300.200 Inspections, Surveys, Evaluations and Consultation
300.210 Filing an Annual Attested Financial Statement
300.220 Information to Be Made Available to the Public By the Department
300.230 Information to Be Made Available to the Public By the Licensee
300.240 Municipal Licensing
300.250 Ownership Disclosure
300.260 Issuance of Conditional Licenses
300.270 Monitor and Receivership
300.271 Presentation of Findings
300.272 Determination to Issue a Notice of Violation or Administrative Warning
300.274 Determination of the Level of a Violation
300.276 Notice of Violation
300.277 Administrative Warning
300.278 Plans of Correction
300.280 Reports of Correction
300.282 Conditions for Assessment of Penalties
300.284 Calculation of Penalties (Repealed)
300.286 Notice of Penalty Assessment; Response by Facility

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

300.287 Consideration of Factors for Assessing Penalties
300.288 Reduction or Waiver of Penalties
300.290 Quarterly List of Violators (Repealed)
300.300 Alcoholism Treatment Programs In Long-Term Care Facilities
300.310 Department May Survey Facilities Formerly Licensed
300.315 Supported Congregate Living Arrangement Demonstration
300.320 Waivers
300.330 Definitions
300.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
300.510 Administrator

SUBPART C: POLICIES

Section
300.610 Resident Care Policies
300.615 Determination of Need Screening and Request for Resident Criminal History Record Information
300.620 Admission, Retention and Discharge Policies
300.624 Criminal History Background Checks for Persons Who Were Residents on May 10, 2006 (Repealed)
300.625 Identified Offenders
300.626 Discharge Planning for Identified Offenders
300.627 Transfer of an Identified Offender
300.630 Contract Between Resident and Facility
300.640 Residents' Advisory Council
300.650 Personnel Policies
300.651 Whistleblower Protection
300.655 Initial Health Evaluation for Employees
300.660 Nursing Assistants
300.661 Health Care Worker Background Check
300.662 Resident Attendants
300.663 Registry of Certified Nursing Assistants
300.665 Student Interns
300.670 Disaster Preparedness
300.680 Restraints

300.682 Nonemergency Use of Physical Restraints
300.684 Emergency Use of Physical Restraints
300.686 Unnecessary, Psychotropic, and Antipsychotic Drugs
300.690 Incidents and Accidents
300.695 Contacting Local Law Enforcement
300.696 Infection Control

SUBPART D: PERSONNEL

Section
300.810 General
300.820 Categories of Personnel
300.830 Consultation Services
300.840 Personnel Policies

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section
300.1010 Medical Care Policies
300.1020 Communicable Disease Policies
300.1025 Tuberculin Skin Test Procedures
300.1030 Medical Emergencies
300.1035 Life-Sustaining Treatments
300.1040 Care and Treatment of Sexual Assault Survivors
300.1050 Dental Standards
300.1060 Vaccinations

SUBPART F: NURSING AND PERSONAL CARE

Section
300.1210 General Requirements for Nursing and Personal Care
300.1220 Supervision of Nursing Services
300.1230 Staffing
300.1240 Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

Section
300.1410 Activity Program

300.1420 Specialized Rehabilitation Services
300.1430 Work Programs
300.1440 Volunteer Program
300.1450 Language Assistance Services

SUBPART H: MEDICATIONS

Section
300.1610 Medication Policies and Procedures
300.1620 Compliance with Licensed Prescriber's Orders
300.1630 Administration of Medication
300.1640 Labeling and Storage of Medications
300.1650 Control of Medications

SUBPART I: RESIDENT AND FACILITY RECORDS

Section
300.1810 Resident Record Requirements
300.1820 Content of Medical Records
300.1830 Records Pertaining to Residents' Property
300.1840 Retention and Transfer of Resident Records
300.1850 Other Resident Record Requirements
300.1860 Staff Responsibility for Medical Records
300.1870 Retention of Facility Records
300.1880 Other Facility Record Requirements

SUBPART J: FOOD SERVICE

Section
300.2010 Director of Food Services
300.2020 Dietary Staff in Addition to Director of Food Services
300.2030 Hygiene of Dietary Staff
300.2040 Diet Orders
300.2050 Meal Planning
300.2060 Therapeutic Diets (Repealed)
300.2070 Scheduling Meals
300.2080 Menus and Food Records
300.2090 Food Preparation and Service
300.2100 Food Handling Sanitation

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

300.2110 Kitchen Equipment, Utensils, and Supplies

SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section
300.2210 Maintenance
300.2220 Housekeeping
300.2230 Laundry Services

SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
300.2410 Furnishings
300.2420 Equipment and Supplies
300.2430 Sterilization of Equipment and Supplies

SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

Section
300.2610 Codes
300.2620 Water Supply
300.2630 Sewage Disposal
300.2640 Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section
300.2810 Applicability of these Standards
300.2820 Codes and Standards
300.2830 Preparation of Drawings and Specifications
300.2840 Site
300.2850 Administration and Public Areas
300.2860 Nursing Unit
300.2870 Dining, Living, Activities Rooms
300.2880 Therapy and Personal Care
300.2890 Service Departments
300.2900 General Building Requirements
300.2910 Structural

300.2920 Mechanical Systems
300.2930 Plumbing Systems
300.2940 Electrical Systems

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section
300.3010 Applicability
300.3020 Codes and Standards
300.3030 Preparation of Drawings and Specifications
300.3040 Site
300.3050 Administration and Public Areas
300.3060 Nursing Unit
300.3070 Living, Dining, Activities Rooms
300.3080 Treatment and Personal Care
300.3090 Service Departments
300.3100 General Building Requirements
300.3110 Structural
300.3120 Mechanical Systems
300.3130 Plumbing Systems
300.3140 Electrical Requirements

SUBPART P: RESIDENT'S RIGHTS

Section
300.3210 General
300.3220 Medical Care
300.3230 Restraints (Repealed)
300.3240 Abuse and Neglect
300.3250 Communication and Visitation
300.3260 Resident's Funds
300.3270 Residents' Advisory Council
300.3280 Contract With Facility
300.3290 Private Right of Action
300.3300 Transfer or Discharge
300.3310 Complaint Procedures
300.3320 Confidentiality
300.3330 Facility Implementation

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

Section
300.3410 Application of Other Sections of These Minimum Standards (Repealed)
300.3420 Administrator (Repealed)
300.3430 Policies (Repealed)
300.3440 Personnel (Repealed)
300.3450 Resident Living Services Medical and Dental Care (Repealed)
300.3460 Resident Services Program (Repealed)
300.3470 Psychological Services (Repealed)
300.3480 Social Services (Repealed)
300.3490 Recreational and Activities Services (Repealed)
300.3500 Individual Treatment Plan (Repealed)
300.3510 Health Services (Repealed)
300.3520 Medical Services (Repealed)
300.3530 Dental Services (Repealed)
300.3540 Optometric Services (Repealed)
300.3550 Audiometric Services (Repealed)
300.3560 Podiatric Services (Repealed)
300.3570 Occupational Therapy Services (Repealed)
300.3580 Nursing and Personal Care (Repealed)
300.3590 Resident Care Services (Repealed)
300.3600 Record Keeping (Repealed)
300.3610 Food Service (Repealed)
300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities) (Repealed)
300.3630 Design and Construction Standards (New and Existing Facilities) (Repealed)

SUBPART R: DAYCARE PROGRAMS

Section
300.3710 Day Care in Long-Term Care Facilities

SUBPART S: PROVIDING SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section
300.4000 Applicability of Subpart S
300.4010 Comprehensive Assessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S

300.4020 Reassessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4030 Individualized Treatment Plan for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4040 General Requirements for Facilities Subject to Subpart S
300.4050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart S
300.4060 Discharge Plans for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4070 Work Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4080 Community-Based Rehabilitation Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4090 Personnel for Providing Services to Persons with Serious Mental Illness for Facilities Subject to Subpart S

SUBPART T: FACILITIES PARTICIPATING IN ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES' DEMONSTRATION PROGRAM FOR PROVIDING SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section
300.6000 Applicability of Subpart T
300.6005 Quality Assessment and Improvement for Facilities Subject to Subpart T
300.6010 Comprehensive Assessments for Residents of Facilities Subject to Subpart T
300.6020 Reassessments for Residents of Facilities Subject to Subpart T
300.6030 Individualized Treatment Plan for Residents of Facilities Subject to Subpart T
300.6040 General Requirements for Facilities Subject to Subpart T
300.6045 Serious Incidents and Accidents in Facilities Subject to Subpart T
300.6047 Medical Care Policies for Facilities Subject to Subpart T
300.6049 Emergency Use of Restraints for Facilities Subject to Subpart T
300.6050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart T
300.6060 Discharge Plans for Residents of Facilities Subject to Subpart T
300.6070 Work Programs for Residents of Facilities Subject to Subpart T
300.6080 Community-Based Rehabilitation Programs for Residents of Facilities Subject to Subpart T
300.6090 Personnel for Providing Services to Residents of Facilities Subject to Subpart T
300.6095 Training and Continuing Education for Facilities Subject to Subpart T

SUBPART U: ALZHEIMER'S SPECIAL CARE UNIT OR CENTER PROVIDING

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

CARE TO PERSONS WITH ALZHEIMER'S DISEASE OR OTHER DEMENTIA

Section
300.7000 Applicability
300.7010 Admission Criteria
300.7020 Assessment and Care Planning
300.7030 Ability-Centered Care
300.7040 Activities
300.7050 Staffing
300.7060 Environment
300.7070 Quality Assessment and Improvement
300.7080 Variances to Enhance Residents' Quality of Life

300.APPENDIX A Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities (Repealed)
300.APPENDIX B Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
300.APPENDIX C Federal Requirements Regarding Patients'/Residents' Rights (Repealed)
300.APPENDIX D Forms for Day Care in Long-Term Care Facilities
300.APPENDIX E Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)
300.APPENDIX F Guidelines for the Use of Various Drugs
300.APPENDIX G Facility Report
300.TABLE A Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities
300.TABLE B Pressure Relationships and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities
300.TABLE C Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
300.TABLE D Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].
SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective

December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15, 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg. 1103, effective January 15, 1999; amended at 23 Ill. Reg. 8106, effective July 15, 1999; amended at 24 Ill. Reg. 17330, effective November 1, 2000; amended at 25 Ill. Reg. 4911, effective April 1, 2001; amended at 26 Ill. Reg. 3113, effective February 15, 2002; amended at 26 Ill. Reg. 4846, effective April 1, 2002; amended at 26 Ill. Reg. 10523, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2181, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5452, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5862, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14204, effective

August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15855, effective September 25, 2003; amended at 27 Ill. Reg. 18105, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3528, effective November 15, 2003; amended at 28 Ill. Reg. 11180, effective July 22, 2004; amended at 28 Ill. Reg. 14623, effective October 20, 2004; amended at 29 Ill. Reg. 876, effective December 22, 2004; emergency amendment at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15101, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12852, effective August 2, 2005; amended at 30 Ill. Reg. 1425, effective January 23, 2006; amended at 30 Ill. Reg. 5213, effective March 2, 2006; amended at 31 Ill. Reg. 6044, effective April 3, 2007; amended at 31 Ill. Reg. 8813, effective June 6, 2007; amended at 33 Ill. Reg. 9356, effective June 17, 2009; amended at 34 Ill. Reg. 19182, effective November 23, 2010; amended at 35 Ill. Reg. 3378, effective February 14, 2011; amended at 35 Ill. Reg. 11419, effective June 29, 2011; expedited correction at 35 Ill. Reg. 17468, effective October 28, 2011; amended at 36 Ill. Reg. _____, effective _____.

SUBPART C: POLICIES

**Section 300.670 Disaster Preparedness**

a) For the purpose of this Section only, "disaster" means an occurrence, as a result of a natural force or mechanical failure such as water, wind or fire, or a lack of essential resources such as electrical power, that poses a threat to the safety and welfare of residents, personnel, and others present in the facility.

b) Each facility shall have policies covering disaster preparedness, including a written plan for staff, residents and others to follow. The plan shall include, but not be limited to, the following:

1) Proper instruction in the use of fire extinguishers for all personnel employed on the premises;

2) A diagram of the evacuation route, which shall be posted and made familiar to all personnel employed on the premises;

3) A written plan for moving residents to safe locations within the facility in the event of a tornado warning or severe thunderstorm warning; and

4) An established means of facility notification when the National Weather

Service issues a tornado or severe thunderstorm warning that covers the area in which the facility is located. The notification mechanism shall be other than commercial radio or television. Approved notification measures include being within range of local tornado warning sirens, an operable National Oceanic and Atmospheric Administration weather radio in the facility, or arrangements with local public safety agencies (police, fire, emergency management agency) to be notified if a warning is issued.

c) Fire drills shall be held at least quarterly for each shift of facility personnel. Disaster drills for other than fire shall be held twice annually for each shift of facility personnel. Drills shall be held under varied conditions to:

1) Ensure that all personnel on all shifts are trained to perform assigned tasks;

2) Ensure that all personnel on all shifts are familiar with the use of the fire-fighting equipment in the facility; and

3) Evaluate the effectiveness of disaster plans and procedures.

d) Fire drills shall include simulation of the evacuation of residents to safe areas during at least one drill each year on each shift.

e) The facility shall provide for the evacuation of physically handicapped persons, including those who are hearing or sight impaired.

f) If the welfare of the residents precludes an actual evacuation of an entire building, the facility shall conduct drills involving the evacuation of successive portions of the building under conditions that assure the capability of evacuating the entire building with the personnel usually available, should the need arise.

g) A written evaluation of each drill shall be submitted to the facility administrator and shall be maintained for one year.

h) A written plan shall be developed for temporarily relocating the residents for any disaster requiring relocation and at any time that the temperature in residents' bedrooms falls below 55°F. for 12 hours or more.

i) Reporting of Disasters

1) Upon the occurrence of any disaster requiring hospital service, police, fire department or coroner, the facility administrator or designee shall provide a preliminary report to the Department either by using the nursing home hotline or by directly contacting the appropriate Department Regional Office during business hours. This preliminary report shall include, at a minimum:

A) The name and location of the facility;

B) The type of disaster;

C) The number of injuries or deaths to residents;

D) The number of beds not usable due to the occurrence;

E) An estimate of the extent of damages to the facility;

F) The type of assistance needed, if any; and

G) A list of other State or local agencies notified about the problem.

2) If the disaster will not require direct Departmental assistance, the facility shall provide a preliminary report within 24 hours after the occurrence. Additionally, the facility shall submit a full written account to the Department within seven days after the occurrence, which includes the information specified in subsection (i)(1) of this Section and a statement of actions taken by the facility after the preliminary report.

j) Each facility shall establish and implement policies and procedures in a written plan to provide for the health, safety, welfare and comfort of all residents when the heat index/apparent temperature (see Section 300.Table D), as established by the National Oceanic and Atmospheric Administration, inside the facility exceeds 80°F.

k) Coordination with Local Authorities

1) Annually, each facility shall forward copies of all disaster policies and plans required under this Section to the local health authority and local

emergency management agency having jurisdiction.

2) Annually, each facility shall forward copies of its emergency water supply agreements, required under Section 300.2620(d)~~300.2610(b)~~, to the local health authority and local emergency management agency having jurisdiction.

3) Each facility shall provide a description of its emergency source of electrical power, including the services connected to the source, to the local health authority and local emergency management agency having jurisdiction. The facility shall inform the local health authority and local emergency management agency at any time that the emergency source of power or services connected to the source are changed.

4) When requested by the local health authority and the local emergency management agency, the facility shall participate in emergency planning activities.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 300.690 Incidents and Accidents**

a) The facility shall maintain a file of all written reports of each incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.

b) The facility shall notify the Department of any serious incident or accident. For purposes of this Section, "serious" means any incident or accident that causes physical harm or injury to a resident.

c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable incident or accident. If a reportable incident or accident results in the death of a resident, the facility shall, after contacting local law enforcement pursuant to Section 300.695, notify the Regional Office by phone only. For the purposes of this Section, "notify the Regional Office by phone only" means talk with a Department representative who confirms over the phone that the requirement to notify the Regional Office by phone has been met. If the

facility is unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Sheltered Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 330

3)

| Section Numbers: | Proposed Action: |
|---|---|
| 330.770 | Amend |
| 330.780 | Amend |

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: The Sheltered Care Facilities Code regulates sheltered care facilities, including the records they are required to keep on incidents and accidents, and the procedures for reporting incidents and accidents to the Department. The amendment to Section 330.780 adds a requirement for reporting the death of a resident when that death is the result of an incident or accident. The facility will be required to notify the Department "by phone only", which is described as talking with a Department representative who confirms that the requirement to notify the Regional Office by phone has been met. This rulemaking should ensure that the Department is properly informed when an incident or accident results in the death of a resident.

Section 330.770 also is being amended to correct a cross-reference.

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 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 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: Sheltered Care Facilities

B) Reporting, bookkeeping or other procedures required for compliance: Yes

C) Types of professional skills necessary for compliance: Nursing; medical

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 know when the most recent Regulatory Agendas were drafted.

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 c: LONG-TERM CARE FACILITIES

PART 330
SHELTERED CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
330.110 General Requirements
330.120 Application for License
330.130 Licensee
330.140 Issuance of an Initial License For a New Facility
330.150 Issuance of an Initial License Due to a Change of Ownership
330.160 Issuance of a Renewal License
330.163 Alzheimer's Special Care Disclosure
330.165 Criteria for Adverse Licensure Actions
330.170 Denial of Initial License
330.175 Denial of Renewal of License
330.180 Revocation of License
330.190 Experimental Program Conflicting With Requirements
330.200 Inspections, Surveys, Evaluations and Consultation
330.210 Filing an Annual Attested Financial Statement
330.220 Information to be Made Available to the Public By the Department
330.230 Information to be Made Available to the Public By the Licensee
330.240 Municipal Licensing
330.250 Ownership Disclosure
330.260 Issuance of Conditional Licenses
330.270 Monitoring and Receivership
330.271 Presentation of Findings
330.272 Determination to Issue a Notice of Violation or Administrative Warning
330.274 Determination of the Level of a Violation
330.276 Notice of Violation
330.277 Administrative Warning
330.278 Plans of Correction
330.280 Reports of Correction
330.282 Conditions for Assessment of Penalties
330.284 Calculation of Penalties (Repealed)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

330.286 Notice of Penalty Assessment; Response by Facility
330.287 Consideration of Factors for Assessing Penalties
330.288 Reduction or Waiver of Penalties
330.290 Quarterly List of Violators (Repealed)
330.300 Alcoholism Treatment Programs In Long-Term Care Facilities
330.310 Department May Survey Facilities Formerly Licensed
330.315 Supported Congregate Living Arrangement Demonstration
330.320 Waivers
330.330 Definitions
330.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
330.510 Administrator

SUBPART C: POLICIES

Section
330.710 Resident Care Policies
330.715 Request for Resident Criminal History Record Information
330.720 Admission and Discharge Policies
330.724 Criminal History Background Checks for Persons Who Were Residents on May 10, 2006 (Repealed)
330.725 Identified Offenders
330.726 Discharge Planning for Identified Offenders
330.727 Transfer of an Identified Offender
330.730 Contract Between Resident and Facility
330.740 Residents' Advisory Council
330.750 General Policies
330.760 Personnel Policies
330.761 Whistleblower Protection
330.765 Initial Health Evaluation for Employees
330.770 Disaster Preparedness
330.780 Incidents and Accidents
330.785 Contacting Local Law Enforcement
330.790 Infection Control
330.795 Language Assistance Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: PERSONNEL

Section
330.910 Personnel
330.911 Health Care Worker Background Check
330.913 Nursing and Personal Care Assistants (Repealed)
330.916 Student Interns (Repealed)
330.920 Consultation Services
330.930 Personnel Policies

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section
330.1110 Medical Care Policies
330.1120 Personal Care
330.1125 Life Sustaining Treatments
330.1130 Communicable Disease Policies
330.1135 Tuberculin Skin Test Procedures
330.1140 Care and Treatment of Sexual Assault Survivors
330.1145 Restraints
330.1150 Emergency Use of Physical Restraints
330.1155 Unnecessary, Psychotropic, and Antipsychotic Drugs
330.1160 Vaccinations

SUBPART F: RESTORATIVE SERVICES

Section
330.1310 Activity Program
330.1320 Work Programs
330.1330 Written Policies for Restorative Services
330.1340 Volunteer Program

SUBPART G: MEDICATIONS

Section
330.1510 Medication Policies
330.1520 Administration of Medication
330.1530 Labeling and Storage of Medications

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
330.1710 Resident Record Requirements
330.1720 Content of Medical Records
330.1730 Records Pertaining to Residents' Property
330.1740 Retention and Transfer of Resident Records
330.1750 Other Resident Record Requirements
330.1760 Retention of Facility Records
330.1770 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
330.1910 Director of Food Services
330.1920 Dietary Staff in Addition to Director of Food Services
330.1930 Hygiene of Dietary Staff
330.1940 Diet Orders
330.1950 Meal Planning
330.1960 Therapeutic Diets (Repealed)
330.1970 Scheduling of Meals
330.1980 Menus and Food Records
330.1990 Food Preparation and Service
330.2000 Food Handling Sanitation
330.2010 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section
330.2210 Maintenance
330.2220 Housekeeping
330.2230 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
330.2410 Furnishings
330.2420 Equipment and Supplies

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
330.2610 Codes
330.2620 Water Supply
330.2630 Sewage Disposal
330.2640 Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

Section
330.2810 Applicable Requirements (Repealed)
330.2820 Applicability of These Standards
330.2830 Submission of a Program Narrative
330.2840 New Constructions, Additions, Conversions, and Alterations
330.2850 Preparation and Submission of Drawings and Specifications
330.2860 First Stage Drawings
330.2870 Second Stage Drawings
330.2880 Architectural Drawings
330.2890 Structural Drawings
330.3000 Mechanical Drawings
330.3010 Electrical Drawings
330.3020 Additions to Existing Structures
330.3030 Specifications
330.3040 Building Codes
330.3050 Site
330.3060 General Building Requirements
330.3070 Administration
330.3080 Corridors
330.3090 Bath and Toilet Rooms
330.3100 Living, Dining, Activity Rooms
330.3110 Bedrooms
330.3120 Special Care Room
330.3130 Kitchen
330.3140 Laundry
330.3150 Housekeeping, Service, and Storage
330.3160 Plumbing
330.3170 Heating and Cooling

330.3180 Electrical

SUBPART N: FIRE PROTECTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

Section
330.3310 Applicable Requirements (Repealed)
330.3320 Applicability of These Standards
330.3330 Fire Protection
330.3340 Fire Department Service and Water Supply
330.3350 General Building Requirements
330.3360 Exit Facilities and Subdivision of Floor Areas
330.3370 Stairways, Vertical Openings, and Doorways
330.3380 Corridors
330.3390 Exit Lights and Directional Signs
330.3400 Hazardous Areas and Combustible Storage
330.3410 Fire Alarm and Detection System
330.3420 Fire Extinguishers, Electric Wiring, and Miscellaneous
330.3430 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES

Section
330.3610 Site
330.3620 General Building Requirements
330.3630 Administration
330.3640 Corridors
330.3650 Bath and Toilet Rooms
330.3660 Living, Dining, and Activity Rooms
330.3670 Bedrooms
330.3680 Special Care Room
330.3690 Kitchen
330.3700 Laundry Room
330.3710 Housekeeping and Service Rooms and Storage Space
330.3720 Plumbing and Heating
330.3730 Electrical

SUBPART P: FIRE PROTECTION STANDARDS FOR

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

EXISTING SHELTERED CARE FACILITIES

Section
330.3910 Fire Protection
330.3920 Fire Department Service and Water Supply
330.3930 Occupancy and Fire Areas
330.3940 Exit Facilities and Subdivision of Floor Areas
330.3950 Stairways, Vertical Openings, and Doorways
330.3960 Exit and Fire Escape Lights and Directional Signs
330.3970 Hazardous Areas and Combustible Storage
330.3980 Fire Alarm and Detection System
330.3990 Fire Extinguishers, Electric Wiring, and Miscellaneous
330.4000 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART Q: RESIDENT'S RIGHTS

Section
330.4210 General
330.4220 Medical Care
330.4230 Restraints (Repealed)
330.4240 Abuse and Neglect
330.4250 Communication and Visitation
330.4260 Resident's Funds
330.4270 Residents' Advisory Council
330.4280 Contract With Facility
330.4290 Private Right of Action
330.4300 Transfer or Discharge
330.4310 Complaint Procedures
330.4320 Confidentiality
330.4330 Facility Implementation

SUBPART R: DAY CARE PROGRAMS

Section
330.4510 Day Care in Long-Term Care Facilities

330.APPENDIX A Interpretation, Components, and Illustrative Services for Sheltered Care Facilities (Repealed)
330.APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

| | |
|---|---|
| | (Repealed) |
| 330.APPENDIX C | Forms for Day Care in Long-Term Care Facilities |
| 330.APPENDIX D | Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed) |
| 330.APPENDIX E | Guidelines for the Use of Various Drugs |
| 330.TABLE A | Heat Index Table/Apparent Temperature |

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg. 19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 10125, effective July 15, 1996; amended at 20 Ill. Reg. 12160, effective September 10, 1996; amended at 22 Ill. Reg. 4078, effective February 13, 1998; amended at 22 Ill. Reg. 7203, effective April 15, 1998; amended at 22 Ill. Reg. 16594, effective September 18, 1998; amended at 23 Ill. Reg. 1085,

effective January 15, 1999; amended at 23 Ill. Reg. 8064, effective July 15, 1999; amended at 24 Ill. Reg. 17304, effective November 1, 2000; amended at 25 Ill. Reg. 4901, effective April 1, 2001; amended at 26 Ill. Reg. 4859, effective April 1, 2002; amended at 26 Ill. Reg. 10559, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2202, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5473, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5886, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14218, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15880, effective September 25, 2003; amended at 27 Ill. Reg. 18130, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3541, effective November 15, 2003; amended at 28 Ill. Reg. 11195, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15156, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12891, effective August 2, 2005; amended at 30 Ill. Reg. 1439, effective January 23, 2006; amended at 30 Ill. Reg. 5260, effective March 2, 2006; amended at 31 Ill. Reg. 6072, effective April 3, 2007; amended at 31 Ill. Reg. 8828, effective June 6, 2007; amended at 33 Ill. Reg. 9371, effective June 17, 2009; amended at 34 Ill. Reg. 19199, effective November 23, 2010; amended at 35 Ill. Reg. 3415, effective February 14, 2011; amended at 35 Ill. Reg. 11513, effective June 29, 2011; amended at 36 Ill. Reg. _____, effective _____.

SUBPART C: POLICIES

**Section 330.770 Disaster Preparedness**

a) For the purpose of this Section only, "disaster" means an occurrence, as a result of a natural force or mechanical failure such as water, wind or fire, or a lack of essential resources such as electrical power, that poses a threat to the safety and welfare of residents, personnel, and others present in the facility.

b) Each facility shall have policies covering disaster preparedness, including a written plan for staff, residents and others to follow. The plan shall include, but not be limited to, the following:

1) Proper instruction in the use of fire extinguishers for all personnel employed on the premises;

2) A diagram of the evacuation route, which shall be posted and made

familiar to all personnel employed on the premises;

3) A written plan for moving residents to safe locations within the facility in the event of a tornado warning or severe thunderstorm warning; and

4) An established means of facility notification when the National Weather Service issues a tornado or severe thunderstorm warning that covers the area in which the facility is located. The notification mechanism shall be other than commercial radio or television. Approved notification measures include being within range of local tornado warning sirens, an operable National Oceanic and Atmospheric Administration weather radio in the facility, or arrangements with local public safety agencies (police, fire, emergency management agency) to be notified if a warning is issued.

c) Fire drills shall be held at least quarterly for each shift of facility personnel. Disaster drills for other than fire shall be held twice annually for each shift of facility personnel. Drills shall be held under varied conditions to:

1) Ensure that all personnel on all shifts are trained to perform assigned tasks;

2) Ensure that all personnel on all shifts are familiar with the use of the fire-fighting equipment in the facility; and

3) Evaluate the effectiveness of disaster plans and procedures.

d) Fire drills shall include simulation of the evacuation of residents to safe areas during at least one drill each year on each shift.

e) The facility shall provide for the evacuation of physically handicapped persons, including those who are hearing or sight impaired.

f) If the welfare of the residents precludes an actual evacuation of an entire building, the facility shall conduct drills involving the evacuation of successive portions of the building under conditions that assure the capability of evacuating the entire building with the personnel usually available, should the need arise.

g) A written evaluation of each drill shall be submitted to the facility administrator and shall be maintained for one year.

h) A written plan shall be developed for temporarily relocating the residents for any disaster requiring relocation and at any time that the temperature in residents' bedrooms falls below 55°F. for 12 hours or more.

i) Reporting of Disasters

1) Upon the occurrence of any disaster requiring hospital service, police, fire department or coroner, the facility administrator or designee shall provide a preliminary report to the Department either by using the nursing home hotline or by directly contacting the appropriate Department Regional Office during business hours. This preliminary report shall include, at a minimum:

A) The name and location of the facility;

B) The type of disaster;

C) The number of injuries or deaths to residents;

D) The number of beds not usable due to the occurrence;

E) An estimate of the extent of damages to the facility;

F) The type of assistance needed, if any; and

G) A list of other State or local agencies notified about the problem.

2) If the disaster will not require direct Departmental assistance, the facility shall provide a preliminary report within 24 hours after the occurrence. Additionally, the facility shall submit a full written account to the Department within seven days after the occurrence, which includes the information specified in subsection (i)(1) of this Section and a statement of action taken by the facility after the preliminary report.

j) Each facility shall establish and implement policies and procedures in a written plan to provide for the health, safety, welfare and comfort of all residents when the heat index/apparent temperature (see Section 330.Table A), as established by the National Oceanic and Atmospheric Administration, inside the facility exceeds

80°F.

k) Coordination with Local Authorities

1) Annually, each facility shall forward copies of all disaster policies and plans required under this Section to the local health authority and local emergency management agency having jurisdiction.

2) Annually, each facility shall forward copies of its emergency water supply agreements, required under Section 330.2620(d)~~330.2610~~, to the local health authority and local emergency management agency having jurisdiction.

3) Each facility shall provide a description of its emergency source of electrical power, including the services connected to the source, to the local health authority and local emergency management agency having jurisdiction. The facility shall inform the local health authority and local emergency management agency at any time that the emergency source of power or services connected to the source are changed.

4) When requested by the local health authority and the local emergency management agency, the facility shall participate in emergency planning activities.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 330.780 Incidents and Accidents**

a) The facility shall maintain a file of all written reports of each incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.

b) The facility shall notify the Department of any serious incident or accident. For purposes of this Section, "serious" means any incident or accident that causes physical harm or injury to a resident.

c) The facility shall, by fax or phone, notify the Regional Office within 24 hours

after each reportable incident or accident. If a reportable incident or accident results in the death of a resident, the facility shall, after contacting local law enforcement pursuant to Section 330.785, notify the Regional Office by phone only. For the purposes of this Section, "notify the Regional Office by phone only" means talk with a Department representative who confirms over the phone that the requirement to notify the Regional Office by phone has been met. If the facility is unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Veterans' Homes Code

2) Code Citation: 77 Ill. Adm. Code 340

3)

| Section Numbers: | Proposed Action: |
|---|---|
| 340.1320 | Amend |
| 340.1330 | Amend |

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: The Illinois Veterans' Homes Code regulates skilled veterans homes, including the records they are required to keep on incidents and accidents, and the procedures for reporting incidents and accidents to the Department. The amendment to Section 340.1330 adds a requirement for reporting the death of a resident when that death is the result of an incident or accident. The facility will be required to notify the Department "by phone only", which is described as talking with a Department representative who confirms that the requirement to notify the Regional Office by phone has been met. This rulemaking should ensure that the Department is properly informed when an incident or accident results in the death of a resident.

Section 340.1320 is being amended to correct a cross-reference.

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 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 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: Veterans' Homes

B) Reporting, bookkeeping or other procedures required for compliance: Yes

C) Types of professional skills necessary for compliance: Nursing; medical

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 know when the most recent Regulatory Agendas were drafted.

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 c: LONG-TERM CARE FACILITIES

PART 340
ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section
340.1000 Definitions
340.1010 Incorporated and Referenced Materials
340.1110 General Requirements
340.1115 Federal Veterans' Regulations
340.1120 Application for License
340.1125 Alzheimer's Special Care Disclosure
340.1130 Criteria for Adverse Licensure Actions
340.1140 Denial of Initial License
340.1150 Revocation or Denial of Renewal of License
340.1160 Inspections, Surveys, Evaluations, and Consultations
340.1170 Presentation of Findings by the Department
340.1190 Ownership Disclosure
340.1200 Monitor and Receivership
340.1210 Determination of a Violation
340.1220 Determination of the Level of a Violation
340.1225 Administrative Warning
340.1230 Plans of Correction and Reports of Correction
340.1240 Calculation of Penalties (Repealed)
340.1245 Conditions for Assessment of Penalties
340.1250 Reduction or Waiver of Penalties
340.1255 Supported Congregate Living Arrangement Demonstration
340.1260 Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section
340.1300 Facility Policies
340.1305 Request for Resident Criminal History Record Information
340.1310 Admission, Retention and Discharge Policies

340.1314 Criminal History Background Checks for Persons Who Were Residents on May 10, 2006 (Repealed)
340.1315 Identified Offenders
340.1316 Discharge Planning for Identified Offenders
340.1317 Transfer of an Identified Offender
340.1320 Disaster Preparedness
340.1330 Incidents and Accidents
340.1335 Infection Control
340.1340 Facility Record Requirements
340.1350 Personnel Policies
340.1351 Whistleblower Protection
340.1360 Initial Health Evaluation for Employees
340.1370 Administrator
340.1375 Personnel Requirements
340.1376 Registry of Certified Nursing Assistants
340.1377 Health Care Worker Background Check
340.1378 Resident Attendants
340.1380 Contacting Local Law Enforcement

SUBPART C: RESIDENT RIGHTS

Section
340.1400 Implementation of Resident Rights and Facility Responsibilities
340.1410 General
340.1420 Contract Between Resident and Facility
340.1430 Residents' Advisory Council
340.1440 Abuse and Neglect
340.1450 Communication and Visitation
340.1460 Resident's Funds
340.1470 Transfer or Discharge
340.1480 Complaint Procedures
340.1490 Private Right of Action

SUBPART D: HEALTH SERVICES

Section
340.1500 Medical Care Policies
340.1505 Medical, Nursing and Restorative Services
340.1510 Communicable Disease Policies

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

340.1520 Tuberculin Skin Test Procedures
340.1530 Physician Services
340.1535 Dental Programs
340.1540 Life-Sustaining Treatments
340.1550 Obstetrical and Gynecological Care
340.1560 Nursing Personnel
340.1570 Personal Care
340.1575 Care and Treatment of Sexual Assault Survivors
340.1580 Restraints
340.1590 Nonemergency Use of Physical Restraints
340.1600 Emergency Use of Physical Restraints
340.1610 Unnecessary, Psychotropic, and Antipsychotic Drugs
340.1620 Medication Administration (Repealed)
340.1630 Self-Administration of Medication (Renumbered)
340.1640 Vaccinations
340.1645 Language Assistance Services

SUBPART E: MEDICATIONS

Section
340.1650 Medication Policies and Procedures
340.1655 Compliance with Licensed Prescriber's Orders
340.1660 Administration of Medication
340.1665 Control of Medication
340.1670 Labeling and Storage of Medication
340.1675 Self-Administration of Medication

SUBPART F: RESIDENT LIVING SERVICES

Section
340.1700 Recreational and Activity Programs
340.1710 Social Services
340.1720 Work Programs
340.1730 Volunteer Program

SUBPART G: RESIDENT RECORDS

Section
340.1800 Resident Record Requirements

340.1810 Content of Medical Records
340.1820 Records Pertaining to Resident's Property
340.1830 Retention, Transfer, and Inspection of Records
340.1840 Confidentiality of Resident's Records

SUBPART H: FOOD SERVICE

Section
340.1900 Food Service Staff
340.1910 Diet Orders
340.1920 Meal Planning
340.1930 Therapeutic Diets (Repealed)
340.1940 Menus and Food Records
340.1950 Food Preparation and Service
340.1960 Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES,
FURNISHINGS, EQUIPMENT AND SUPPLIES

Section
340.2000 Maintenance
340.2010 Water Supply, Sewage Disposal and Plumbing
340.2020 Housekeeping
340.2030 Laundry Services
340.2040 Furnishings
340.2050 Equipment and Supplies

340.TABLE A Heat Index Table/Apparent Temperature
340.TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendment at 20 Ill. Reg. 496, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10045, effective July 15, 1996; amended at 20 Ill. Reg. 12013, effective September 10, 1996; amended at 22 Ill. Reg. 3959, effective February 13, 1998; amended at 22 Ill. Reg. 7162, effective April 15, 1998; amended at 23 Ill. Reg. 1038, effective January 15, 1999; amended at

23 Ill. Reg. 7931, effective July 15, 1999; amended at 24 Ill. Reg. 17225, effective November 1, 2000; amended at 25 Ill. Reg. 4869, effective April 1, 2001; amended at 26 Ill. Reg. 4870, effective April 1, 2002; amended at 26 Ill. Reg. 10589, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2222, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; amended at 27 Ill. Reg. 5903, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14230, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15904, effective September 25, 2003; amended at 27 Ill. Reg. 18148, effective November 15, 2003; amended at 28 Ill. Reg. 11209, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15208, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12924, effective August 2, 2005; amended at 30 Ill. Reg. 1452, effective January 23, 2006; amended at 30 Ill. Reg. 5303, effective March 2, 2006; amended at 31 Ill. Reg. 6098, effective April 3, 2007; amended at 31 Ill. Reg. 8841, effective June 6, 2007; amended at 33 Ill. Reg. 9384, effective June 17, 2009; amended at 34 Ill. Reg. 19214, effective November 23, 2010; amended at 35 Ill. Reg. 3442, effective February 14, 2011; amended at 35 Ill. Reg. 11996, effective June 29, 2011; amended at 36 Ill. Reg. _____, effective _____.

SUBPART B: POLICIES AND FACILITY RECORDS

**Section 340.1320 Disaster Preparedness**

a) For the purpose of this Section only, "disaster" means an occurrence, as a result of a natural force or mechanical failure such as water, wind or fire, or a lack of essential resources such as electrical power, that poses a threat to the safety and welfare of residents, personnel, and others present in the facility.

b) Each facility shall have policies covering disaster preparedness, including a written plan for staff, residents and others to follow. The plan shall include, but not be limited to, the following:

1) Proper instruction in the use of fire extinguishers for all personnel employed on the premises;

2) A diagram of the evacuation route, which shall be posted and made familiar to all personnel employed on the premises;

3) A written plan for moving residents to safe locations within the facility in

the event of tornado warning or severe thunderstorm warning; and

4) An established means of facility notification when the National Weather Service issues a tornado or severe thunderstorm warning that covers the area in which the facility is located. The notification mechanism shall be other than commercial radio or television. Approved notification measures include being within range of local tornado warning sirens, an operable National Oceanic and Atmospheric Administration weather radio in the facility, or arrangements with local public safety agencies (police, fire, emergency management agency) to be notified if a warning is issued.

c) Fire drills shall be held at least quarterly for each shift of facility personnel. Disaster drills for other than fire shall be held twice annually for each shift of facility personnel. Drills shall be held under varied conditions to:

1) Ensure that all personnel on all shifts are trained to perform assigned tasks;

2) Ensure that all personnel on all shifts are familiar with the use of the fire-fighting equipment in the facility; and

3) Evaluate the effectiveness of disaster plans and procedures.

d) Fire drills shall include simulation of the evacuation of residents to safe areas during at least one drill each year on each shift.

e) The facility shall provide for the evacuation of physically handicapped persons, including those who are hearing or sight impaired.

f) If the welfare of the residents precludes an actual evacuation of an entire building, the facility shall conduct drills involving the evacuation of successive portions of the building under conditions that assure the capability of evacuating the entire building with the personnel usually available, should the need arise.

g) A written evaluation of each drill shall be submitted to the facility administrator and shall be maintained for one year.

h) A written plan shall be developed for temporarily relocating the residents for any disaster requiring relocation and at any time that the temperature in residents'

bedrooms falls below 55° F. for 12 hours or more.

i) Reporting of Disasters

1) Upon the occurrence of any disaster requiring hospital service, police, fire department or coroner, the facility administrator or designee shall provide a preliminary report to the Department either by using the nursing home hotline or by directly contacting the appropriate Department Regional Office during business hours. This preliminary report shall include, at a minimum:

A) The name and location of the facility;

B) The type of disaster;

C) The number of injuries or deaths to residents;

D) The number of beds not usable due to the occurrence;

E) An estimate of the extent of damages to the facility;

F) The type of assistance needed, if any; and

G) A list of other State or local agencies notified about the problem.

2) If the disaster will not require direct Departmental assistance, the facility shall provide a preliminary report within 24 hours after the occurrence. Additionally, the facility shall submit a full written account to the Department within seven days after the occurrence, which includes the information specified in subsection (i)(1) of this Section and a statement of actions taken by the facility after the preliminary report.

j) Each facility shall establish and implement policies and procedures in a written plan to provide for the health, safety, welfare and comfort of all residents when the heat index/apparent temperature (see Section 340.Table A), as established by the National Oceanic and Atmospheric Administration, inside the facility exceeds 80° F.

k) Coordination with Local Authorities

1) Annually, each facility shall forward copies of all disaster policies and plans required under this Section to the local health authority and local emergency management agency having jurisdiction.

2) Annually, each facility shall forward copies of its emergency water supply agreements, required under Section 340.2010(a)(5), to the local health authority and local emergency management agency having jurisdiction.

3) Each facility shall provide a description of its emergency source of electrical power, including the services connected to the source, to the local health authority and local emergency management agency having jurisdiction. The facility shall inform the local health authority and local emergency management agency at any time that the emergency source of power or services connected to the source are changed.

4) When requested by the local health authority and the local emergency management agency, the facility shall participate in emergency planning activities.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

**Section 340.1330 Incidents and Accidents**

a) The facility shall maintain a file of all written reports of each incident and accident affecting a resident that is not the expected outcome of a resident's condition or disease process. A descriptive summary of each incident or accident affecting a resident shall also be recorded in the progress notes or nurse's notes of that resident.

b) The facility shall notify the Department of any serious incident or accident. For purposes of this Section, "serious" means any incident or accident that causes physical harm or injury to a resident.

c) The facility shall, by fax or phone, notify the Regional Office within 24 hours after each reportable incident or accident. If a reportable incident or accident results in the death of a resident, the facility shall, after contacting local law enforcement pursuant to Section 340.1380, notify the Regional Office by phone only. For the purposes of this Section, "notify the Regional Office by phone only"

means talk with a Department representative who confirms over the phone that the requirement to notify the Regional Office by phone has been met. If the facility is unable to contact the Regional Office, it shall notify the Department's toll-free complaint registry hotline. The facility shall send a narrative summary of each reportable accident or incident to the Department within seven days after the occurrence.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Emergency Medical Services and Trauma Center Code

2) Code Citation: 77 Ill. Adm. Code 515

3)

| Section Numbers: | Proposed Action: |
|---|---|
| 515.Appendix L | Amend |
| 515.Appendix O | Amend |

4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

5) A Complete Description of the Subjects and Issues Involved: Section 515.Appendix L provides the equipment list required by all Emergency Departments Approved for Pediatrics (EDAP) and Standby Emergency Departments Approved for Pediatrics (SEDP). This Section is being amended to delete the use of gastric lavage equipment, which is no longer considered standard care.

Section 515. Appendix O provides the application guide that a hospital must follow to apply for Pediatric Critical Care Center (PCCC) recognition. Within this Section is a checklist for the PCCC facility's emergency department, which must adhere to certain requirements. Section 515.Appendix O is being amended to update the requirements recently added for the EDAP, which must be followed by all emergency departments within a recognized PCCC facility.

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: Federal Emergency Medical Services for Children performance measures mandated through the Maternal & Child Health Bureau, Health Resources & Services Administration (HRSA) [www.hrsa.gov]; and the American Academy of Pediatrics "Joint Policy Statement - Guidelines for Care of Children in the Emergency Department," October 2009 [www.pediatrics.org].

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

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

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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.

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 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: Hospitals that are PCCC recognized or want to become a PCCC recognized facility.

B) Reporting, bookkeeping or other procedures required for compliance: Policies, procedures, tracking of compliance with pediatric continuing education, quality improvement and equipment/supplies.

C) Types of professional skills necessary for compliance: Licensed health care professionals, i.e., Physician Assistants, Nurse Practitioners, RN, MD/DO

14) Regulatory Agenda on which this rulemaking was summarized: July 2012

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 f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 515
EMERGENCY MEDICAL SERVICES AND TRAUMA CENTER CODE

SUBPART A: GENERAL

Section
515.100 Definitions
515.125 Incorporated and Referenced Materials
515.150 Waiver Provisions
515.160 Facility, System and Equipment Violations, Hearings and Fines
515.170 Employer Responsibility

SUBPART B: EMS REGIONS

Section
515.200 Emergency Medical Services Regions
515.210 EMS Regional Plan Development
515.220 EMS Regional Plan Content
515.230 Resolution of Disputes Concerning the EMS Regional Plan
515.240 Bioterrorism Grants

SUBPART C: EMS SYSTEMS

Section
515.300 Approval of New EMS Systems
515.310 Approval and Renewal of EMS Systems
515.315 Bypass Status Review
515.320 Scope of EMS Service
515.330 EMS System Program Plan
515.340 EMS Medical Director's Course
515.350 Data Collection and Submission
515.360 Approval of Additional Drugs and Equipment
515.370 Automated Defibrillation (Repealed)
515.380 Do Not Resuscitate (DNR) Policy
515.390 Minimum Standards for Continuing Operation
515.400 General Communications

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515.410 EMS System Communications
515.420 System Participation Suspensions
515.430 Suspension, Revocation and Denial of Licensure of EMTs
515.440 State Emergency Medical Services Disciplinary Review Board
515.445 Pediatric Care
515.450 Complaints
515.455 Intra- and Inter-system Dispute Resolution
515.460 Fees
515.470 Participation by Veterans Health Administration Facilities

SUBPART D: EMERGENCY MEDICAL TECHNICIANS

Section
515.500 Emergency Medical Technician-Basic Training
515.510 Emergency Medical Technician-Intermediate Training
515.520 Emergency Medical Technician-Paramedic Training
515.530 EMT Testing
515.540 EMT Licensure
515.550 Scope of Practice – Licensed EMT
515.560 EMT-B Continuing Education
515.570 EMT-I Continuing Education
515.580 EMT-P Continuing Education
515.590 EMT License Renewals
515.600 EMT Inactive Status
515.610 EMT Reciprocity
515.620 Felony Convictions
515.630 Evaluation and Recognition of Military Experience and Education
515.640 Reinstatement

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER, FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE, EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND TRAUMA NURSE SPECIALIST

Section
515.700 EMS Lead Instructor
515.710 Emergency Medical Dispatcher
515.720 First Responder
515.725 First Responder – AED
515.730 Pre-Hospital Registered Nurse

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515.740 Emergency Communications Registered Nurse
515.750 Trauma Nurse Specialist
515.760 Trauma Nurse Specialist Program Plan

SUBPART F: VEHICLE SERVICE PROVIDERS

Section
515.800 Vehicle Service Provider Licensure
515.810 EMS Vehicle System Participation
515.820 Denial, Nonrenewal, Suspension and Revocation of a Vehicle Service Provider License
515.825 Alternate Response Vehicle
515.830 Ambulance Licensing Requirements
515.835 Stretcher Van Provider Licensing Requirements
515.840 Stretcher Van Requirements
515.845 Operation of Stretcher Vans
515.850 Reserve Ambulances
515.860 Critical Care Transport

SUBPART G: LICENSURE OF SPECIALIZED EMERGENCY MEDICAL SERVICES VEHICLE (SEMSV) PROGRAMS

Section
515.900 Licensure of SEMSV Programs – General
515.910 Denial, Nonrenewal, Suspension or Revocation of SEMSV Licensure
515.920 SEMSV Program Licensure Requirements for All Vehicles
515.930 Helicopter and Fixed-Wing Aircraft Requirements
515.935 EMS Pilot Specifications
515.940 Aeromedical Crew Member Training Requirements
515.945 Aircraft Vehicle Specifications and Operation
515.950 Aircraft Medical Equipment and Drugs
515.955 Vehicle Maintenance for Helicopter and Fixed-wing Aircraft Programs
515.960 Aircraft Communications and Dispatch Center
515.965 Watercraft Requirements
515.970 Watercraft Vehicle Specifications and Operation
515.975 Watercraft Medical Equipment and Drugs
515.980 Watercraft Communications and Dispatch Center
515.985 Off-Road SEMSV Requirements
515.990 Off-Road Vehicle Specifications and Operation

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515.995 Off-Road Medical Equipment and Drugs
515.1000 Off-Road Communications and Dispatch Center

SUBPART H: TRAUMA CENTERS

Section
515.2000 Trauma Center Designation
515.2010 Denial of Application for Designation or Request for Renewal
515.2020 Inspection and Revocation of Designation
515.2030 Level I Trauma Center Designation Criteria
515.2035 Level I Pediatric Trauma Center
515.2040 Level II Trauma Center Designation Criteria
515.2045 Level II Pediatric Trauma Center
515.2050 Trauma Center Uniform Reporting Requirements
515.2060 Trauma Patient Evaluation and Transfer
515.2070 Trauma Center Designation Delegation to Local Health Departments
515.2080 Trauma Center Confidentiality and Immunity
515.2090 Trauma Center Fund
515.2100 Pediatric Care (Renumbered)
515.2200 Suspension Policy for Trauma Nurse Specialist Certification

SUBPART I: EMS ASSISTANCE FUND

Section
515.3000 EMS Assistance Fund Administration

SUBPART J: EMERGENCY MEDICAL SERVICES FOR CHILDREN

Section
515.3090 Pediatric Recognition of Hospital Emergency Departments and Inpatient Critical Care Services
515.4000 Facility Recognition Criteria for the Emergency Department Approved for Pediatrics (EDAP)
515.4010 Facility Recognition Criteria for the Standby Emergency Department Approved for Pediatrics (SEDP)
515.4020 Facility Recognition Criteria for the Pediatric Critical Care Center (PCCC)

515.APPENDIX A A Request for Designation (RFD) Trauma Center
515.APPENDIX B A Request for Renewal of Trauma Center Designation

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| | |
|---|---|
| 515.APPENDIX C | Minimum Trauma Field Triage Criteria |
| 515.APPENDIX D | Standing Medical Orders |
| 515.APPENDIX E | Minimum Prescribed Data Elements |
| 515.APPENDIX F | Template for In-House Triage for Trauma Centers |
| 515.APPENDIX G | Credentials of General/Trauma Surgeons Level I and Level II |
| 515.APPENDIX H | Credentials of Emergency Department Physicians Level I and Level II |
| 515.APPENDIX I | Credentials of General/Trauma Surgeons Level I and Level II Pediatric Trauma Centers |
| 515.APPENDIX J | Credentials of Emergency Department Physicians Level I and Level II Pediatric Trauma Centers |
| 515.APPENDIX K | Application for Facility Recognition for Emergency Department with Pediatrics Capabilities |
| 515.APPENDIX L | Pediatric Equipment Recommendations for Emergency Departments |
| 515.APPENDIX M | Inter-facility Pediatric Trauma and Critical Care Consultation and/or Transfer Guideline |
| 515.APPENDIX N | Pediatric Critical Care Center (PCCC)/Emergency Department Approved for Pediatrics (EDAP) Recognition Application |
| 515.APPENDIX O | Pediatric Critical Care Center Plan |
| 515.APPENDIX P | Pediatric Critical Care Center (PCCC) Pediatric Equipment/Supplies/Medications Requirements |

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. 15278, effective August 30, 2011; amended at 35 Ill. Reg. 16697, effective

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September 29, 2011; amended at 35 Ill. Reg. 18331, effective October 21, 2011; amended at 35 Ill. Reg. 20609, effective December 9, 2011; amended at 36 Ill. Reg. 880, effective January 6, 2012; amended at 36 Ill. Reg. 2296, effective January 25, 2012; amended at 36 Ill. Reg. 3208, effective February 15, 2012; amended at 36 Ill. Reg. 11196, effective July 3, 2012; amended at 36 Ill. Reg. _____, effective _____.

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**Section 515.APPENDIX L Pediatric Equipment Recommendations for Emergency Departments**

The following list identifies pediatric equipment items that are recommended for the two emergency department facility recognition levels. Equipment items are classified as "essential" (E) and "need to be stocked in the emergency department" (ED).

| | EDAP | SEDP |
|---|---|---|
| Monitoring Devices | | |
| Blood glucose measurement device (i.e., chemistry strip or glucometer) | E (ED) | E (ED) |
| Continuous end-tidal $PCO_2$ monitor and pediatric $CO_2$ colorimetric detector (disposable units may be substituted) | E (ED) | E (ED) |
| Doppler ultrasound blood pressure device (neonatal-adult thigh cuffs) | E (ED) | E (ED) |
| ECG monitor-defibrillator/cardioverter with pediatric and adult sized paddles, with pediatric dosage settings and pediatric-adult pacing electrodes | E (ED) | E (ED) |
| Hypothermia thermometer (Note: with a range of 28-42°C) | E (ED) | E (ED) |
| Pediatric monitor electrodes | E (ED) | E (ED) |
| Otoscope/ophthalmoscope/stethoscope | E (ED) | E (ED) |
| Pulse oximeter with pediatric and adult probes | E (ED) | E (ED) |
| Sphygmomanometer with cuffs (neonatal-adult thigh) | E (ED) | E (ED) |
| Vascular Access Supplies and Equipment | | |
| Arm boards (sized infant through adult) | E (ED) | E (ED) |
| Blood gas kits | E (ED) | E (ED) |

| | | |
|---|---|---|
| Butterfly-type needles (19-25 g)* | E (ED) | E (ED) |
| Catheter-over-needle devices (16-24 g)* | E (ED) | E (ED) |
| Central venous catheters (stock one small and one large size) | E (ED) | E (ED) |
| Infusion pumps, drip or volumetric, with microinfusion capability, appropriate tubing & connectors | E (ED) | E (ED) |
| Intraosseous needles or bone marrow needles (13-18 g size range; stock one large/one small bore) or IO device (pediatric and adult sizes) | E (ED) | E (ED) |
| IV extension tubing, stopcocks, and T-connectors | E (ED) | E (ED) |
| IV fluid/blood warmer | E (ED) | E (ED) |
| IV solutions: standard crystalloid and colloid solutions (D10W, D5/.2 NS, D5/.45 NS, D5/.9 NS and 0.9 NS) | E (ED) | E (ED) |
| Syringes (1ml through 20 ml) | E (ED) | E (ED) |
| Tourniquets | E (ED) | E (ED) |
| Umbilical vein catheters (3.5 and 5 Fr; the same size feeding tube may be used for 5 Fr)* | E (ED) | E (ED) |
| Respiratory Equipment and Supplies | | |
| Bag-valve-mask device, self-inflating infant/child and adult (1000 ml) with $O_2$ reservoir and clear masks (neonatal through large adult sizes)*; PEEP valve and manometer | E (ED) | E (ED) |
| Bulb syringe | E (ED) | E (ED) |
| Endotracheal tubes:* | | |
| Uncuffed (sizes 2.5 and 3.0) | E (ED) | E (ED) |
| Cuffed or Uncuffed (3.5, 4.0, 4.5, 5.0, 5.5) | E (ED) | E (ED) |
| Cuffed (sizes 6.0, 6.5, 7.0, 7.5, 8.0) | E (ED) | E (ED) |

| | | |
|---|---|---|
| Stylets for endotracheal tubes (pediatric and adult) | E (ED) | E (ED) |
| Laryngoscope handle (pediatric and adult) | E (ED) | E (ED) |
| Laryngoscope blades (curved 2, 3; straight or Miller 0, 1, 2, 3)* | E (ED) | E (ED) |
| Magill forceps (pediatric and adult) | E (ED) | E (ED) |
| Meconium aspirator | E (ED) | E (ED) |
| Nasopharyngeal airways (sizes 12, 16, 20, 24, 28, 30 Fr)* | E (ED) | E (ED) |
| Nebulized medication, administration set with pediatric and adult masks | E (ED) | E (ED) |
| Oral airways (sizes 0, 1, 2, 3, 4, 5 or size 50 mm, 60 mm, 70 mm, 80 mm, 90 mm, 100 mm)* | E (ED) | E (ED) |
| Oxygen delivery device with flow meter and tubing | E (ED) | E (ED) |
| Oxygen delivery adjuncts: | | |
| Tracheostomy collar | E (ED) | E (ED) |
| Standard masks, clear (pediatric and adult sizes)~~and non-rebreather masks, clear (pediatric and adult sizes)~~ | E (ED) | E (ED) |
| Partial-non-rebreather or non-rebreather masks, clear (pediatric and adult sizes) | E (ED) | E (ED) |
| Nasal cannula (infant, pediatric and adult) | E (ED) | E (ED) |
| Peak flow meter | E (ED) | E (ED) |
| Supplies/kit for patients with difficult air way conditions: | E (ED) | E (ED) |

- LMA (sizes 1, 1.5, 2, 2.5, 3, 4 and 5); or
- Cricothyrotomy kit or cricothyrotomy capabilities (i.e., 10 g needle and 3 mm ET tube adapter or 14 g needle and 3.5 mm ET tube adapter)

| | | |
|---|---|---|
| Suction capability (wall) | E (ED) | E (ED) |
| Suction capability (portable) | E (ED) | E (ED) |
| Suction catheters (sizes 5/6, 8, 10, 12, 14, 16 Fr and Yankauer-tip catheter)* | E (ED) | E (ED) |
| Tracheostomy tubes (sizes PED* 3.0, 3.5, 4.0, 4.5, 5.0, 5.5)* (correspond to PT 00, 0, 1, 2, 3, 4, in old schematization) | E (ED) | --- |
| Tube thoracostomy tray and water seal drainage capacity with chest tubes (sizes 12-32 Fr)* | E (ED) | --- |
| Medications (unit dose, prepackaged) | | |
| Access to the Illinois Poison Center 1-800-222-1222 through posting of phone number in ED | E (ED) | E (ED) |
| Activated charcoal (consider with and without Sorbitol) | E (ED) | E (ED) |
| Adenosine | E (ED) | E (ED) |
| Amiodarone | E (ED) | E (ED) |
| Antiemetics | E (ED) | E (ED) |
| Antimicrobial agents (parenteral and oral) | E (ED) | E (ED) |
| Antipyretics | E (ED) | E (ED) |
| Atropine | E (ED) | E (ED) |
| Barbiturates, e.g., Phenobarbital, Pentobarbital, Thiopental | E (ED) | E (ED) |
| Benzodiazepines, e.g., Lorazepam, Midazolam, Diazepam | E (ED) | E (ED) |
| Beta agonist for inhalation (Albuterol, Levalbuterol) | E (ED) | E (ED) |

| | | |
|---|---|---|
| Beta blockers, e.g., Propranolol, Metoprolol | E (ED) | E (ED) |
| Calcium (chloride or gluconate) | E (ED) | E (ED) |
| Corticosteroids, e.g., Dexamethasone, Hydrocortisone, Methylprednisolone | E (ED) | E (ED) |
| Dextrose (25% and 50%) | E (ED) | E (ED) |
| Diphenhydramine | E (ED) | E (ED) |
| Dobutamine | E (ED) | --- |
| Dopamine | E (ED) | --- |
| Epinephrine (1:1,000 and 1:10,000) | E (ED) | E (ED) |
| Epinephrine (Racemic) | E (ED) | E (ED) |
| Fosphenytoin and/or Phenytoin | E (ED) | E (ED) |
| Furosemide | E (ED) | E (ED) |
| Glucagon or Glucose Paste | E (ED) | E (ED) |
| Insulin, regular | E (ED) | E (ED) |
| Lidocaine 1% | E (ED) | E (ED) |
| Magnesium Sulfate | E (ED) | E (ED) |
| Mannitol | E (ED) | E (ED) |
| Narcotics | E (ED) | E (ED) |
| Neuromuscular blocking agents (i.e., succinylcholine, rocuronium, vecuronium) | E (ED) | E (ED) |
| Ocular anesthetics | E (ED) | E (ED) |

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

| | | |
|---|---|---|
| Poison Specific Antidotes | | |
| Acetylcysteine | E (ED) | E (ED) |
| Cyanide kit | E (ED) | E (ED) |
| Flumazenil | E (ED) | E (ED) |
| Naloxone | E (ED) | E (ED) |
| Procainamide | E (ED) | E (ED) |
| Sodium bicarbonate – 8.4% and 4.2% | E (ED) | E (ED) |
| Sedative/Hypnotic (e.g., Ketamine, Etomidate) | E (ED) | E (ED) |
| Tetanus Immune Globulin (Human) | E (ED) | E (ED) |
| Tetanus Vaccines (single or in combination with other vaccines) | E (ED) | E (ED) |
| Topical Anesthetics | E (ED) | E (ED) |
| Miscellaneous Equipment | E (ED) | E (ED) |
| Dosing device – length or weight based system for dosing and equipment | E (ED) | E (ED) |
| Dosing/equipment chart by weight | E (ED) | E (ED) |
| EMS communication equipment (i.e., telemetry, MERCI, cellular or dedicated phone) | E (ED) | E (ED) |
| Examination gloves, disposable | E (ED) | E (ED) |
| Fluorescein (eye strips) | E (ED) | E (ED) |
| ~~Gastric lavage equipment~~ | ~~E (ED)~~ | ~~E (ED)~~ |
| Infant formulas, dextrose in water with various nipple sizes | E (ED) | E (ED) |
| Lubricant, water soluble | E (ED) | E (ED) |

| | | |
|---|---|---|
| Nasogastric tubes 8 through-18 Fr* (may substitute feeding tubes 5F and 8F) | E (ED) | E (ED) |
| Oral rehydrating solution | E (ED) | E (ED) |
| Pain scale assessment tools appropriate for age | E (ED) | E (ED) |
| Pediatric emergency/crash cart or bag with defined list of contents attached to bag/cart | E (ED) | E (ED) |
| Restraining device, pediatric (papoose) | E (ED) | E (ED) |
| Resuscitation board | E (ED) | E (ED) |
| Urinary catheters (8-22 Fr)* | E (ED) | E (ED) |
| Warming devices, age appropriate | E (ED) | E (ED) |
| Weighing scales (in kilograms) for infant and children | E (ED) | E (ED) |
| Woods lamp (blue light) | E (ED) | E (ED) |
| Specialized Pediatric Trays | | |
| Initial newborn resuscitation equipment (can include warming device, feeding tubes, neonatal mask) | E (ED) | E (ED) |
| Lumbar puncture tray, including a selection of needle sizes (size 18-22 g, 1½-3 inch needle) | E (ED) | E (ED) |
| Minor surgical instruments and sutures | E (ED) | E (ED) |
| Newborn kit/OB kit (including umbilical clamp, bulb syringe, towel) | E (ED) | E (ED) |
| Fracture Management Devices | | |
| Extremity splints | E (ED) | E (ED) |

| | | |
|---|---|---|
| Femur splint (child and adult) | E (ED) | E (ED) |
| Semi-rigid neck collars (child through adult) or cervical immobilization equipment suitable for children | E (ED) | E (ED) |
| Spinal immobilization board (child and adult) | E (ED) | E (ED) |

* Shall minimally stock a range of each commonly available size noted or comparable sizes.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

**Section 515.APPENDIX~~Appendix~~ O Pediatric Critical Care Center Plan**

I. PEDIATRIC CRITICAL CARE CENTER PLAN

Application Checklist
Instructions: Please follow and complete this checklist carefully. It outlines the components that must be included in the submitted plan. Please include any applicable supplemental documentation.

A. Organizational Structure

1. Enclosed is an organizational table identifying the administrative relationships among all departments in the hospital, especially as they relate to the pediatrics department. The table shall include, but is not limited to, the following:

   - ☐ board of directors
   - ☐ chief executive officers
   - ☐ emergency department
   - ☐ department of pediatrics
   - ☐ pediatric ambulatory care
   - ☐ trauma service
   - ☐ department of radiology
   - ☐ laboratory services
   - ☐ transport service team
   - ☐ social services

2. Enclosed is an organizational table showing the organizational structure of the department of pediatrics, including the relationship of the physician, nursing and ancillary services for both the PICU and pediatric units. Include the reporting structure for the pediatric chairman (to whom he/she reports).

   ☐ Department of Pediatrics Organizational Structure (Table)

3. Enclosed is an organizational table showing the organizational structure of the emergency department, including the relationship of the physician, nursing and ancillary services. Include the reporting structure for the emergency department director (to whom he/she reports).

   ☐ Emergency Department Organizational Structure (Table)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

EDAP Checklist

Review the criteria in Section 515.4000(a)(1) and (2) for the physician staff qualifications and continuing medical education and submit each of the following:

- ☐ A policy or medical staff bylaws that incorporate the physician qualifications and CME requirements.
- ☐ A completed Credentials of Emergency Department Physicians form
- ☐ A completed Credentials of Fast Track Physicians form
- ☐ The curriculum vitae for the ED medical director
- ☐ A current one-month physician schedule for the ED

Review the criteria in Section 515.4000(a)(3) for the ED physician coverage and submit a policy that addresses this requirement.

Review the criteria in Section 515.4000(a)(4) for ED consultation and submit a one-month on-call schedule identifying availability of board certified/board prepared pediatricians or pediatric emergency medicine physicians.

Review the criteria in Section 515.4000(a)(5) for ED physician back-up and submit a policy that addresses this requirement.

Review the criteria in Section 515.4000(a)(6) for on-call specialty physician response time and submit a policy that addresses this requirement.

Review the criteria in Section 515.4000(b)(1) and (2) for mid-level provider qualifications and continuing medical education and submit the following (as applicable):

- ☐ A policy(s) that incorporates the mid-level provider qualifications and continuing education requirements
- ☐ A completed Credentials of Emergency Department Mid-level Providers form
- ☐ A current one-month mid-level provider schedule

Review the criteria in Section 515.4000(c)(1) and (2) for nursing qualifications and continuing education and submit the following:

- ☐ A policy that incorporates the nursing qualifications and CE requirements
- ☐ A completed Credentials of Emergency Department Nursing Staff form

- ☐ A one-month nurse staffing schedule for the emergency department

Review the criteria in Section 515.4000(d)(1) for inter-facility transfer and submit the following:

- ☐ An inter-facility transfer policy that addresses pediatric transfers
- ☐ A copy of current pediatric-specific transfer agreements with hospitals that provide pediatric specialty services, pediatric intensive care and burn care not available at your facility

Review the criteria in Section 515.4000(d)(2) for suspected child abuse and neglect and submit a policy that addresses this requirement.

Review the criteria in Section 515.4000(d)(3) for treatment protocols and submit all pediatric treatment protocols.

Review the criteria in Section 515.4000(d)(4) for latex allergy policy and submit a policy that addresses latex allergies and the availability of latex-free equipment and supplies.

Review the criteria in Section 515.4000(d)(5) for disaster preparedness and submit a completed pediatric disaster preparedness checklist.

Review the criteria in Section 515.4000(e)(1) for quality improvement activities and the multidisciplinary quality improvement committee and submit ~~both of~~ the following:

- ☐ A quality improvement plan, including a QI policy, pediatric indicators, feedback loop and target time frames for closure of issues
- ☐ The composition of the multidisciplinary QI committee

Review the criteria in Section 515.4000(e)(2) and (3) for the pediatric physician champion and the pediatric quality coordinator responsibilities and submit ~~both of~~ the following:

- ☐ A curriculum vitae for the pediatric physician champion
- ☐ A curriculum vitae and job description for the pediatric quality coordinator
- ☐ Documentation detailing the participation of the pediatric quality coordinator in regional QI activities and how that has affected pediatric quality care in the ED

Review the criteria in Section 515.4000(f) for the list of emergency department equipment requirements and submit a completed checklist indicating the availability of all equipment.

Indicate in the pediatric plan whether each item is currently available. If equipment/supply items are not available, a plan for securing the items shall be identified (e.g., submission of a purchase order to assure that the item is on order) or a waiver request shall be submitted for each item. Requests for waiver shall include the criteria by which compliance is considered to be a hardship and demonstrate that there will be no reduction in the provision of medical care.

If assistance is needed in identifying specific vendors for any of the equipment or supply items in this application, please contact the Marketing Administrator, Group Purchasing Services, Metropolitan Chicago Healthcare Council at 312-906-6122.

B. PCCC Checklist

1. Hospital Requirements

Review the criteria in Section 515.4020(a) of the PCCC requirements as related to hospital resources and submit documentation identifying the ability to meet each of the following:

- ☐ A scope of services/policy outlining PICU services, unit resources and capabilities. Include any guidelines that outline pediatric admission criteria based on age parameters and/or diagnoses
- ☐ A list of the members of the PICU Committee, as well as their disciplines, to meet subsection (a)(3)
- ☐ Documentation to substantiate that Section 515.4020(a)(4) (Helicopter landing) is met
- ☐ A statement regarding 24-hour availability to meet Section 515.4020(a)(5) (CAT scan)
- ☐ A statement regarding the ability to meet Section 515.4020(a)(6) (Laboratory)
- ☐ A statement of availability or transfer agreement to meet Section 515.4020(a)(7) (Hemodialysis capabilities)
- ☐ A statement or scope of service from each program identifying the availability of staff as required in Section 515.4020(a)(8) (Other staffing/services)
- ☐ A list of professional pediatric critical care educational trainings that staff have provided in the past year to meet Section 515.4020(a)(9) (include information on trainings held within the facility, within the region or surrounding geographic area)
- ☐ A list of pediatric emergency care classes that staff have provided in the past year to meet Section 515.4020(a)(10) (i.e., CPR, first aid, health fairs, etc., conducted for the patient population and the community, region or surrounding geographic area)

☐ Documentation of any pediatric research the facility has been engaged in during the past year to meet Section 515.4020(a)(11) (include the research project abstract, summary of projects or listing of research activities)

## II. PICU SERVICE REQUIREMENTS

A. Professional Staff

1. PICU Medical Director

Review the criteria in Section 515.4020(b) for the Medical Director and Co-Director requirements and submit each of the following:

☐ A curriculum vitae for the appointed PICU medical director
☐ A copy of board certification or verification of board certification
☐ A curriculum vitae and board certification for the co-director (as applicable − see Section 515.4020(b)(1)

2. PICU Medical Staff Requirements

Review the criteria in Section 515.4020(c) and submit each of the following:

PICU Medical Staff
☐ A policy outlining PICU physician staffing, coverage, availability, and CME requirements that incorporates Section 515.4020(c)(1)(A) and (B)
☐ A completed Credentials of PICU Physicians form that includes the medical director (and co-director as applicable)
☐ A one-month staffing schedule/calendar (schedule should be from within the three-month time period previous to the application submission)

Physician Specialist Availability (Section 515.4020(c)(2))
☐ A policy or by-laws that address the response time and on-call scheduling of pediatric surgeons
☐ A policy/process outlining board or sub-board certification or board preparedness for all specialist physicians
☐ A policy/process outlining how pediatric proficiency is defined and assuring that all specialist physicians maintain 10 hours of pediatric CME per year
☐ A policy/process outlining anesthesiologist on-call staffing and response time, subspecialty training in pediatric anesthesiology or pediatric proficiency as

defined by institution, and 10 hours of pediatric CME per year; for Certified Registered Nurse Anesthetists, provide a copy of the by-laws that address their responsibilities and back up

☐ On-call schedules from the last month that list physician availability to meet Section 515.4020(c)(2)(C) and (D)

3. PICU Mid-Level Providers (Physician Assistant or Nurse Practitioner) Requirements

NOTE – Complete this section only if physician assistants or nurse practitioners practice in the PICU.

Review the criteria in Section 515.4020(d) and submit each of the following:

Nurse Practitioner (Section 515.4020(d)(1))

☐ A policy outlining PICU nurse practitioner staffing, coverage, availability, responsibilities and credentialing process

☐ A copy of a one-month staffing schedule/calendar (schedule should be from within the three-month time period previous to the application submission)

☐ A completed Credentials of PICU Mid-Level Providers form

Physician Assistant (Section 515.4020(d)(2))

☐ A policy outlining PICU physician assistant staffing, coverage, availability, responsibilities and credentialing process

☐ A copy of a one-month staffing schedule/calendar (schedule should be from within the three-month time period previous to the application submission)

☐ A completed Credentials of PICU Mid-Level Providers form

Education (Section 515.4020(d)(3) and (4))

☐ A policy that incorporates APLS, PALS or ENPC (Section 515.4020(d)(3))

☐ A copy of the PICU physician assistant/nurse practitioner continuing education policy that incorporates Section 515.4020(d)(4)

4. PICU Nursing Staff Requirements

Review the criteria in Section 515.4020(e) and submit each of the following:

PICU Nurse Manager

☐ A curriculum vitae for the PICU manager

- ☐ A policy or job description that incorporates Section 515.4020(e)(1)(C)

PICU Advanced Practice Nurse

- ☐ A policy or job description of the role and responsibilities of the advanced practice nurse in the PICU
- ☐ A resume of the PICU advanced practice nurse
- ☐ A policy that incorporates Section 515.4020(e)(2)(C) and (D)

Nursing Patient Care Services

- ☐ A policy/documentation outlining current nursing shift staffing plan/patterns
- ☐ A completed Credentials of PICU Nursing Staff form that includes the PICU nurse manager and PICU advanced practice nurse
- ☐ A policy or job description for the PICU nurse that outlines the orientation process to the unit responsibilities and requirements of the Department (Section 515.4020(e)(3)(C) and (D))
- ☐ A copy of a one-month nurse staffing schedule/calendar (schedule shall be from within the three-month time period previous to the application submission)
- ☐ A policy reflecting yearly competency review requirements for the PICU staff

D. Policies, Procedures and Treatment Protocols

Review the criteria in Section 515.4020(f) and submit each of the following:

- ☐ An admission and discharge criteria policy
- ☐ A staffing policy that addresses nursing shift staffing patterns based on patient acuity
- ☐ A policy for managing the psychiatric needs of the PICU patient
- ☐ Protocols, order sets, pathways or guidelines for management of high- and low-frequency diagnoses

E. Inter-facility Transfer/Transport Requirements

Review the criteria in Section 515.4020(g) and submit each of the following:

- ☐ A copy of the last annual report containing the number of annual transfers to the facility from transferring institutions
- ☐ A policy outlining the feedback process to transferring hospitals on the status of the referral patient and the methods for quality review of the transfer process

- ☐ Documentation outlining the pediatric inter-facility transport system capabilities and resources
- ☐ A transfer policy that addresses pediatric inter-facility transfers

F. Quality Improvement Requirements

Review the criteria in Section 515.4020(h) and submit each of the following:

- ☐ A list of the members of the Multidisciplinary Pediatric Quality Improvement Committee and their respective positions/disciplines
- ☐ An institutional Quality Improvement Organizational Chart
- ☐ The PICU outcome analysis plan and pediatric monitoring activities that meet Section 515.4020(h)(2) (minutes from the past year that reflect the activities of the Multidisciplinary Pediatric Quality Improvement Committee will be requested at the time of site survey)

G. Equipment

Review the criteria in Section 515.4020(i) and submit the following:

Indicate in the Pediatric Plan whether each item is currently available. If equipment/supply items are not available, a plan for securing the items shall be identified (e.g., submission of a purchase order to assure that the item is on order); if the item is not on order, a waiver request shall be submitted for each item. Requests for waiver shall include the criteria by which compliance is considered to be a hardship and shall demonstrate that there will be no reduction in the provision of medical care.

If assistance is needed in identifying specific vendors for any of the equipment/supply items noted in this application, please contact the Marketing Administrator, Group Purchasing Services, Metropolitan Chicago Healthcare Council at 312-906-6122.

III. PEDIATRIC INPATIENT CARE SERVICE REQUIREMENTS

A. Professional Staff

1. Pediatric Unit Physician Requirements

Review the criteria in Section 515.4020(j) and submit each of the following:

- ☐ A curriculum vitae and a copy of board certification for the pediatric inpatient director
- ☐ A policy or a scope of services for the pediatric unit that defines responsibility for medical management of care
- ☐ If pediatric hospitalists are used, documentation that defines their scope of service, including their responsibilities to other attending physicians
- ☐ A completed Credentials of Pediatric Unit Hospitalists form
- ☐ A policy that incorporates Section 515.4020(j)(1)(B)
- ☐ A policy or scope of services outlining the responsibility of the PICU medical director or his/her designee as being available on call and for consultation on all pediatric in-house patients who may require critical care

2. Pediatric Unit Nurse Manager Requirements

Review the criteria in Section 515.4020(j)(2) and submit each of the following:

- ☐ A curriculum vitae for the pediatric unit manager
- ☐ A job description or policy incorporating Section 515.4020(j)(2)(C)

3. Pediatric Unit Nursing Care Services

Review the criteria in Section 515.4020(j)(3) and submit each of the following:

- ☐ A policy/documentation outlining current nursing shift staffing plan/patterns
- ☐ A policy describing annual competency review requirements for the pediatric nursing staff (Section 515.4020(j)(3)(B))
- ☐ A policy or job description for the pediatric unit nurse that outlines the orientation process to the unit responsibilities and requirements of the Department that address Section 515.4020(j)(3)(A) through (D)
- ☐ A copy of a one-month nursing staffing schedule/calendar (schedule shall be from within the three-month time period previous to the application submission)
- ☐ A completed Credentials for the Pediatric Unit Nursing Staff form that includes the Pediatric Unit Nurse Manager

B. Policies, Procedures and Treatment Protocols

Review the criteria in Section 515.4020(k) and submit each of the following:

☐ A policy or scope of services that outlines the pediatric department services, ages of patients served and admission guidelines
☐ A staffing policy that addresses nursing shift staffing patterns based on patient acuity
☐ A safety and security policy for the patient in the unit
☐ An inter-facility transport policy that addresses safety and acuity
☐ An intra-facility transport policy that addresses safety and acuity
☐ A latex allergy policy
☐ A pediatric organ procurement/donation policy
☐ An isolation precautions policy that incorporates appropriate infection control measures
☐ A disaster/terrorism policy that addresses the specific medical and psychosocial needs of the pediatric population
☐ Protocols, order sets, pathways or guidelines for management of high- and low-frequency diagnoses
☐ A pediatric policy that addresses the resources available to meet the psychosocial needs of patients and family, and appropriate social work referral for the following indicators (see Pediatric Bill of Rights in Appendix N):
- Child death
- Child has been a victim of or witness to violence
  Family needs assistance in obtaining resources to take the child home
- Family needs a payment resource for their child's health needs
  Family needs to be linked back to their primary health, social service or educational system
- Family needs support services to adjust to their child's health condition or the increased demands related to changes in their child's health condition
- Family needs additional education related to the child's care needs to care for the child at home

☐ A discharge planning policy or protocol that includes the following:
1. Documentation of appropriate primary care/specialty follow-up provisions
2. Mechanism to access a primary care resource for children who do not have a provider
3. Discharge summary provision to appropriate medical care provider, parent/guardian, that includes:
   - Information on the child's hospital course
   - Discharge instructions and education
   - Follow-up arrangements
4. Appropriate referral of patients to rehabilitation or specialty services for children who may have any of the following problems:

- Require the assistance of medical technology
- Do not exhibit age-appropriate activity in cognitive, communication or motor skills, behavioral or social/emotional realms
- Have additional medical or rehabilitation needs that may require specialized care, such as medication, hospice care, physical therapy, home health or speech/language services
- Have a brain injury – mild, moderate or severe
- Have a spinal cord injury
- Exhibit seizure behavior during an acute care episode or have a history of seizure disorder and are not currently linked with specialty follow-up
- Have a submersion injury, such as a near drowning
- Have a burn (other than a superficial burn)
- Have a pre-existing condition that experiences a change in health or functional status
- Have a neurological, musculoskeletal or developmental disability
- Have a sudden onset of behavioral change, for example, in cognition, language or affect

C. Quality Improvement Requirements

Review the criteria in Section 515.4020(l) and submit the following:

☐ The titles of the pediatric unit representatives that serve on the Multidisciplinary Pediatric Quality Improvement Committee

D. Equipment Requirements

Review the criteria in Section 515.4020(m) and submit the following:

Indicate in the Pediatric Plan whether each item is currently available. If equipment/supply items are not available, a plan for securing the items shall be identified (e.g., submission of a purchase order to assure that the item is on order); if the item is not on order, a waiver request shall be submitted for each item. Requests for waiver shall include the criteria by which compliance is considered to be a hardship and shall demonstrate that there will be no reduction in the provision of medical care.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

If assistance is needed in identifying specific vendors for any of the equipment/supply items noted in this application, please contact the Marketing Administrator, Group Purchasing Services, Metropolitan Chicago Healthcare Council at 312-906-6122.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Entries and Declarations

2) Code Citation: 11 Ill. Adm. Code 1312

3) Section Number: 1312.55 — Proposed Action: New Section

4) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)]

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking requires the Executive Director of the Board to approve any purse changes once the purse for a race has been advertised and prior to the first entry. The Board must approve purse changes after entries are made.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

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

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

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 which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Board did not anticipate the need for this rulemaking at the time the agendas were published.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING

PART 1312
ENTRIES AND DECLARATIONS

Section

1312.10 Entries
1312.20 Penalties
1312.30 Sale of Horse With Entrance Due
1312.40 Receipt of Entries
1312.50 Postage Meter
1312.55 Limitation on Purse Increases or Reductions
1312.60 Deviation From Published Conditions
1312.70 When Ineligible Horse Races
1312.80 Transfer of Ineligible Horse
1312.90 Withholding Purse When Ineligible Horse Races
1312.100 Early Closing and Late Closing Events
1312.110 Subsequent Payments
1312.120 Trust Funds
1312.130 Stable Space
1312.140 Limitation on Conditions
1312.150 Penalties
1312.160 Excess Entry Fees
1312.170 Entries and Starters Required
1312.180 Elimination Heats
1312.190 Elimination Plans
1312.200 Overnight Events
1312.210 Entry Box and Drawing of Horses
1312.220 Substitute Races
1312.230 Drivers
1312.240 Declaration and Withdrawing
1312.250 Qualifying Races
1312.260 Entry or Coupling
1312.265 Uncoupled Entries
1312.270 Husband-Wife Entries
1312.280 Also Eligibles

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1312.290 Preference
1312.300 Stewards' List
1312.310 Medical Reasons for Ineligibility

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 Harness Racing (original date not cited in publication); amended July 12, 1974, filed July 22, 1974; amended February 13, 1976, filed March 1, 1976; amended September 19, 1975, filed October 2, 1975; amended at 4 Ill. Reg. 9, p. 251, effective February 20, 1980; amended at 4 Ill. Reg. 21, p. 85, effective May 9, 1980; amended at 5 Ill. Reg. 1498, effective February 2, 1981; codified at 5 Ill. Reg. 10934; amended at 15 Ill. Reg. 2727, effective February 5, 1991; amended at 24 Ill. Reg. 7390, effective May 1, 2000; amended at 25 Ill. Reg. 6390, effective May 1, 2001; amended at 27 Ill. Reg. 5030, effective March 7, 2003; amended at 31 Ill. Reg. 8526, effective June 1, 2007; amended at 36 Ill. Reg. _____, effective _____.

**Section 1312.55 Limitation on Purse Increases or Reductions**

a) No purse for any race may be increased or reduced after the purse has been advertised, published or reflected in the conditions without prior approval of the Executive Director of the Board. If approved, the Racing Secretary shall promptly post the change in purse on the public bulletin board in the Racing Secretary's office for the inspection of owners, trainers and the public, and list it in the "overnight sheets".

b) No purse for any race may be increased or reduced after the first entry is made without prior approval of the Board.

(Source: Added at 36 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Entries, Subscriptions, and Declarations

2) Code Citation: 11 Ill. Adm. Code 1413

3) Section Number: 1413.75 — Proposed Action: Amend

4) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)]

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking requires the Executive Director of the Board to approve any purse changes once the purse for a race has been advertised and prior to the first entry. The Board must approve purse changes after entries are made.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

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

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 7-701
Chicago, Illinois 60601

312/814-5017

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

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 which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Board did not anticipate the need for this rulemaking at the time the agendas were published.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING (THOROUGHBRED)

PART 1413
ENTRIES, SUBSCRIPTIONS, AND DECLARATIONS

Section

1413.10 Registration with Jockey Club
1413.20 Registration Rules
1413.30 Eligibility
1413.40 How Entries are Made
1413.42 Number of Entries
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ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1413.210 Entry of Unfit Horse
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1413.230 Horse Ineligible
1413.240 Who May Enter
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1413.265 Receipt for Nomination
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1413.280 Transfer of Engagements
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1413.305 Transfer of Jockey Club Certificate
1413.310 Number of Races in a Day

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); passed July 11, 1972; amended April 11, 1974, filed and effective April 30, 1974; passed June 11, 1974; amended July 12, 1974, filed July 22, 1974; amended August 13, 1974, filed August 19, 1974; amended August 15, 1975, filed August 20, 1975; amended September 19, 1975, filed October 2, 1975; amended June 19, 1976; amended July 16, 1976, filed July 23, 1976; amended August 21, 1976, filed August 30, 1976; amended April 26, 1977, filed May 6, 1977; amended at 4 Ill. Reg. 9, p. 251, effective February 20, 1980; amended at 5 Ill. Reg. 8911, effective August 25, 1981; codified at 5 Ill. Reg. 10981; amended at 15 Ill. Reg. 2730, effective February 5, 1991; amended at 17 Ill. Reg. 1628, effective January 26, 1993; amended at 17 Ill. Reg. 21848, effective December 3, 1993; amended at 18 Ill. Reg. 11612, effective July 7, 1994; amended at 18 Ill. Reg. 17749, effective November 28, 1994; amended at 24 Ill. Reg. 7394, effective May 1, 2000; amended at 24 Ill. Reg. 12725, effective August 1, 2000; amended at 25 Ill. Reg. 178, effective January 1, 2001; amended at 25 Ill. Reg. 15608, effective December 1, 2001; amended at 26 Ill. Reg. 12367, effective August 1, 2002; amended at 31 Ill. Reg. 8530, effective June 1, 2007; amended at 32 Ill. Reg. 10165, effective July 1, 2008; emergency amendment at 35 Ill. Reg. 6605, effective April 4, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 13910, effective July 28, 2011; amended at 36 Ill. Reg. _____, effective _____.

**Section 1413.75 Limitation on Purse Increases or Reductions**

a) No purse for any race may be increased or reduced after the ~~said~~ purse has been

advertised, published or reflected in the conditions without prior approval of the Executive Director of the Board.~~unless notice of said reduction is promptly given to the state steward,~~ If approved, the Racing Secretary shall promptly post~~posted~~ the change in purse on the public bulletin board in the Racing Secretary's~~racing secretary's~~ office for the inspection of owners, trainers~~,~~ and the public, and list it~~listed~~ in the "overnight sheets~~.~~".

b) No purse for any race may be increased or reduced after the first entry is made without prior approval of the Board~~for any such race~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Attorney General's Procurement

2) Code Citation: 44 Ill. Adm. Code 1300

3)

| Section Numbers: | Adopted Action: |
|---|---|
| 1300.08 | Amendment |
| 1300.10 | Amendment |
| 1300.15 | Amendment |
| 1300.30 | Amendment |
| 1300.525 | Amendment |
| 1300.1002 | Amendment |
| 1300.1010 | Amendment |
| 1300.2005 | Amendment |
| 1300.2010 | Amendment |
| 1300.2012 | Amendment |
| 1300.2015 | Amendment |
| 1300.2025 | Amendment |
| 1300.2030 | Amendment |
| 1300.2035 | Amendment |
| 1300.2036 | Amendment |
| 1300.2037 | Amendment |
| 1300.2038 | Amendment |
| 1300.2040 | Amendment |
| 1300.2044 | Amendment |
| 1300.2045 | Amendment |
| 1300.2046 | Amendment |
| 1300.2047 | Amendment |
| 1300.2050 | Amendment |
| 1300.2055 | Amendment |
| 1300.2060 | Amendment |
| 1300.2580 | New Section |
| 1300.4005 | Amendment |
| 1300.4015 | New Section |
| 1300.4020 | New Section |
| 1300.4025 | New Section |
| 1300.4045 | New Section |
| 1300.4510 | Amendment |
| 1300.4530 | Amendment |
| 1300.4535 | Amendment |
| 1300.4545 | Amendment |

NOTICE OF ADOPTED AMENDMENTS

| | |
|---|---|
| 1300.5030 | Amendment |
| 1300.5037 | New Section |
| 1300.5039 | New Section |
| 1300.5510 | Amendment |
| 1300.5520 | Amendment |
| 1300.5530 | Amendment |
| 1300.5550 | Amendment |
| 1300.5555 | New Section |
| 1300.7015 | Amendment |
| 1300.7020 | Amendment |

4) Statutory Authority: Implementing and authorized by Section 1-30(a) of the Illinois Procurement Code [30 ILCS 500/1-30(a)]

5) Effective Date of Amendments: July 13, 2012

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 rule is on file and is available for public inspection in the Attorney General's office in Chicago (12th Floor, James R. Thompson Center).

9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 20859; December 30, 2011

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

11) Differences between proposal and final version: The following changes were made in response to comments or suggests of JCAR:

In Section 1300.1010, text was added to the first sentence to clarify that the small purchase threshold is "($30,000, or as adjusted for inflation based on the consumer price index as determined by the OAG PPCMB)". In addition, text was changed in Section 1300.1010 to indicate that the CPO for the Attorney General's office "shall be responsible for its own [construction] procurements[,]" rather than the CPO for the Capital Development Board or the CPO for General Services procuring those services.

In Section 1300.2005, text was added to clarify that the documents maintained in a procurement contract file will include "[t]he formal request for approval to procure[,]"

rather than the "Procurement Business Case[.]" In Section 1300.2030, text was stricken that would have permitted quick purchases for entertainment.
Section 1300.4005 was amended and new Sections 1300.4015, 1300.4020, 1300.4025, and 1300.4045 were added to clarify the Attorney General's real estate lease procedures. Under Section 1300.4015, the Attorney General's office will generally use a Request for Information process, except for: (1) leases of property of less than 10,000 square feet with rent of less than $100,000 per year; (2) leases of property of less than one year that cannot be renewed; (3) leases of property of specialized space available at only one location; (4) renewals or extensions, if the chief procurement officer for the Office of the Attorney General determines that the renewal or extension is in the best interest of the office and the State, the renewal or extension is submitted to the Attorney General's Procurement Policy and Compliance Monitoring Board and the Board does not object in writing to the renewal or extension within 30 days, the chief procurement officer publishes notice of the renewal or extension in the Illinois Procurement Bulletin, and the length of the lease does not exceed 10 years; or (5) leases of property with another governmental unit.

Section 1300.4020 specifies information to be included in the Request for Information, provides for publication of the Notice of a Request for Information, addresses the review of Requests for Information, authorizes negotiations with all qualified respondents, provides for the state purchasing officer's recommendation of which proposal should be accepted, requires the submission of the proposed lease to the Attorney General's Procurement Policy and Compliance Monitoring Board for review, provides the Board with 10 days to review the proposed lease, unless a written waiver of the time period is granted by the Board, requires the announcement of a final award in the Illinois Procurement Bulletin, and authorizes the chief procurement officer to reject any and all proposals and to request and evaluate "best and final" proposals. Section 1300.4025 sets out lease requirements regarding length of term, renewal options, holdover provisions, and the penalty for failure to make improvements agreed upon in the lease. Section 1300.4045 authorizes emergency lease procurements under Section 1300.2030.

In addition various stylistic changes were made in response to comments from JCAR.

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

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

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

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rulemaking: The Attorney General's Procurement rules have been amended to address changes to the Illinois Procurement Code. These amendments implement changes necessitated by Public Acts 96-795, effective July 1, 2010; 96-920, effective July 1, 2010; 96-1444, effective August 20, 2010; and 96-1521, effective February 14, 2011.

The amendments further define terms, provide the structure for the oversight of procurement, specify required documentation of procurement actions, specify publication in the Illinois Procurement Bulletin of explanation for awards to other than the low bidder and the content of the explanation, restrict amendments to sole economically feasible source procurements for professional and artistic services, limit the scope of emergency conditions for emergency purchases, specify the requirements for an extension of an emergency purchase, provide requirements for publication of professional and artistic procurements, expand the reasons for the cancellation of a solicitation, provide requirements for pre-solicitation assistance prepared by a person outside of state personnel, change permissible duration of contracts, provide the requirement for disclosure of subcontractors, changes the qualifications for small business, provide requirements for vendor registration with the State Board of Elections, provide contract file requirements for vendors required to register with State Board of Elections, require the reporting of communications related to a procurement, add that subcontractors' performance may be reviewed and set out the procedures for review, provide for debarment or suspension of subcontractors, set out real estate lease procedures using a request for information process, and provide procedures for hearings and decisions of hearings.

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

Melissa Mahoney
Deputy Chief of Staff, Administration
Office of the Attorney General
100 West Randolph, 12th Floor
Chicago, Illinois 60601

312/814-3950

Rocco LaSalvia
Senior Operations Director
Office of the Attorney General
100 West Randolph, 11th Floor
Chicago, Illinois 60601

312/814-3667

The full text of the Adopted Amendments begin on the next page.

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XX: ATTORNEY GENERAL

PART 1300
ATTORNEY GENERAL'S PROCUREMENT

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1300.05 Policy
1300.08 Illinois Procurement Code
1300.10 Application
1300.15 Definitions of Terms Used in This Part
1300.25 Property Rights
1300.30 Contracts Necessary to Prepare for Anticipated Litigation

SUBPART B: PROCUREMENT RULES

Section
1300.525 Procurement by DCMS Rules

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Section
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1300.1010 Construction

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section
1300.1510 Publicizing Procurement Actions
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SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION − GENERAL

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1300.2035 Competitive Selection Procedures for Professional and Artistic Services
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SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section
1300.2043 Suppliers
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SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

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SUBPART H: SPECIFICATIONS AND SAMPLES

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SUBPART I: CONTRACT TYPE

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SUBPART J: DURATION OF CONTRACTS

Section

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SUBPART K: CONTRACT MATTERS

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1300.2560 Prevailing Wage
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SUBPART L: CONTRACT PRICING

Section
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SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section
1300.4005 Real Property Leases and Capital Improvement Leases
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1300.4015 Method of Source Selection
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SUBPART P: ETHICS

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SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section
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SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section
1300.6500 General
1300.6510 OAG Use of Other Contracts
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SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

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1300.7000 Severability
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1300.7020 Records and Audits
1300.7025 Written Determinations
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ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing and authorized by Section 1-30(a) of the Illinois Procurement Code [30 ILCS 500/1-30(a)].

SOURCE: Adopted by emergency rule at 22 Ill. Reg. 12013, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 15192, effective August 15, 1998; amended at 23 Ill. Reg. 8971, effective July 28, 1999; amended at 36 Ill. Reg. 11974, effective July 13, 2012.

SUBPART A: GENERAL

**Section 1300.08 Illinois Procurement Code**

Articles 1, 15, 20, 25, 30, 33, 35, 40, 45, 50 and 53 of the Illinois Procurement Code [30 ILCS 500~~525~~/Arts. 1, 15, 20, 25, 30, 33, 35, 40, 45, 50 and 53] (the Code) will be referenced herein as though applicable to the OAG, and needs shall be procured in a manner substantially in accordance with those provisions of the Code, except to the extent otherwise provided in this Part. For purposes of this Part, any reference in the Code or this Part to the Chief Procurement Officer (CPO) means the employee designated by the Attorney General to serve in that capacity~~Attorney General or his designee~~. The Attorney General may appoint one or more State Purchasing Officers (SPO).

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.10 Application**

a) The Code and this Part apply to those procurements for which the contractors were first solicited on or after July 1, 1998.

b) Procurements for which contractors were first solicited on or before June 30, 1998, shall be conducted pursuant to legal requirements in effect at the time of the solicitation. The terms and conditions and the rights and obligations under contracts resulting from such procurements shall not be impaired.

~~c) A solicitation occurs on or before June 30, 1998, for purposes of this Part, in the following circumstances:~~

~~1) When advertising is required in the Official State Newspaper, the first advertisement must run no later than June 30, 1998.~~

~~2) When advertising is not required:~~

~~A) but if the procurement was advertised, the first advertisement must have run no later than June 30, 1998;~~

~~B) if the procurement was by direct solicitation by mail, the solicitation must have been postmarked no later than June 30, 1998;~~

~~C) if the procurement was by direct solicitation by fax, the fax must show a transmission date no later than June 30, 1998;~~

~~D) if the procurement was solicited in person or by telephone, the solicitation must have occurred no later than June 30, 1998, and the individual who made the solicitation must state in writing when the procurement was discussed, and must name the party with whom the discussion took place.~~

~~3) In all circumstances, the solicitations must be for the procurement of particular needs. A general discussion to determine if there is any interest is not considered a solicitation.~~

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.15 Definitions of Terms Used in This Part**

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined in this Section~~below~~, and each term listed in this Section shall have the meaning set forth in this Section~~below~~ unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Amendment" – A written unilateral or bilateral modification to a contract term, as permitted by the original contract. These modifications shall alter the performance and completion of the contract, including but not limited to such matters as extra work and increases or decreases in quantities of goods not included within the scope of the original contract.

"Award" – The selection of a vendor for a contract.

"Bid" − The response to an Invitation for Bids.

"Bidder" − Any person, other than an individual acting as a sole proprietor, who submits a bid.

"Bidder or Offeror Authorized to do Business in Illinois" or "Qualified Bidder" – A person, other than an individual acting as a sole proprietor, that is a legal entity authorized to do business in Illinois as evidenced by its registration with the Secretary of State Department of Business Services.

"Brand Name or Equal Specification" − A specification which uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and which allows the submission of equivalent products.

"Brand Name Specification" − A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Bulletin" – The Illinois Procurement Bulletin.

"Change Order" – A change order shall have the same meaning as an "amendment".

"Code" – The Illinois Procurement Code [30 ILCS 500].

"Concession" – The right or a lease to engage in a certain activity for profit on the lessor's premises (e.g., a refreshment or parking concession).

"Consulting Services" – Services provided by a business or person as an independent contractor to advise and assist the OAG in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of the OAG. The services may or may not rise to the level of professional and artistic as defined in the Code and this Part.

"Contract" − A contract may be in written or oral form. The term contract as used in the Code and this Part does not include: goods or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds issued by or on behalf of any State agency, or contracts, other than for "concessions", where the State agency signs, but has no financial obligation to the other parties.

"Contractor" or "Vendor" – The terms contractor and vendor are used interchangeably for purposes of the Code and this Part.

"Day" − Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"DCMS" or "CMS" − The Department of Central Management Services.

"Items" – Anything that may be procured under the Code or this Part.

"Invitation for Bids" or "IFB" – *the process by which a purchasing agent requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids* [30 ILCS 500/1-15.45].

"Multi-Year Contract" – A multi-year contract is a contract with a performance term of more than 12 months.

"OAG" − The Office of the Attorney General.

"Offeror" – A person who responds to an Invitation for Bids, Request for Proposals or other form of solicitation.

"Procurement Officer" – The Chief Procurement Officer (CPO) or appropriate State Purchasing Officer (SPO) who conducts a particular procurement, or a designee of either.

"Proposal" − The~~the~~ response to a Request for Proposals.

"Protest Review Office" – The office address of the person designated in the solicitation documents to which protests must be directed. The person designated in the solicitation documents will respond to or coordinate the response to the protest.

"Purchase of Care" − *Purchase of care means a contract with a person for the furnishing of medical, educational, psychiatric, vocational, rehabilitative, social, or human services directly to a recipient of a State aid program.* [30 ILCS 500~~525~~/1-15.68] Services provided to a recipient include those that are a

necessary adjunct to the provision of the State aid program services (e.g., obtaining intake information prior to commencement of medical treatment). Services provided to an applicant for a State aid program necessary to determine eligibility for the program are included within this definition.

"Qualified Products List" − An approved list of supplies, services, or construction items described by model or catalogue numbers, which, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

"Renewal" – An extension of an original contract with materially identical terms to the original contract.

"Request for Information" or "RFI" – The process by which the OAG requests information from offerors for OAG contracts for leases of real property or capital improvements.

"Request for Proposals" or "RFP" – The process by which the OAG requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.

"Responsible Bidder or Offeror" – A person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time the bid or proposal was submitted for OAG contract.

"Services" – *The furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance* [30 ILCS 500/1-15.90], and the financing thereof.

"Solicitation" – An Invitation for Bids, a Request for Proposals or other request to one or more vendors to respond to a procurement need expressed by the OAG.

"Specification" − Any description of the physical, functional, or performance characteristics, or of the nature of supply, service, or construction items. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used

interchangeably throughout this Part.

"Specification for a Common or General Use Item" − A specification that has been developed and approved for repeated use in procurements ~~in accordance with the provisions of Section 1300.2050~~.

"Subcontract" – A contract between one person and another person who has or is seeking a contract subject to the Code, pursuant to which the subcontractor provides to the contractor some or all of the goods, services, property, remuneration or other forms of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency.

"Subcontractor" – A person or entity that enters into a contractual agreement, for an amount greater than the small purchases limits set by Section 20-20 of the Code (or an amount set by rule pursuant to Section 20-20(c) of the Code) or Section 35-35 of the Code or Section 45 of the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535/45], with a contractor who has or is seeking a contract subject to the Code and this Part, to provide the contractor with some or all of the goods, services, property, remuneration or other forms of consideration that are the contractor's contractual obligations.

"Unsolicited Offer" – Any offer other than one submitted in response to a solicitation.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.30 Contracts Necessary to Prepare for Anticipated Litigation**

Contracts necessary to prepare for anticipated litigation, enforcement actions or investigations, including but not limited to the appointment of special assistant attorneys general, contracts for court reporter services, and contracts with expert witnesses, are excepted from the application of the Code and this Part, provided that they are approved by Counsel to the Attorney General, or his designee, as provided in Section 1-10(b)(7) of the Code.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART B: PROCUREMENT RULES

**Section 1300.525 Procurement by DCMS Rules**

To the extent practicable and available, the OAG may avail itself of master, schedule or open-ended contracts established by DCMS; items available from the Paper and Printing Warehouse; and DCMS contracts for telecommunications equipment, software and services, paper and envelopes, and vehicles and vehicle services.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART C: PROCUREMENT AUTHORITY

**Section 1300.1002 Conduct and Oversight of Procurements**

a) Chief Procurement Officer. The Attorney General shall designate a Chief Procurement Officer (CPO) for purposes of the Code and this Part. The CPO may conduct any or all procurements on behalf of the OAG. The CPO shall have at least 5 years of experience in State budgeting or procurement activities, or shall be a certified professional public buyer or certified public purchasing officer. The CPO shall be a resident of the State of Illinois and shall owe a fiduciary duty to the State. The CPO is responsible for signing all written award determination letters stating the reasoning for any contract award decision. The CPO shall perform other duties as required by law.

b) State Purchasing Officer. The Attorney General may appoint one or more State Purchasing Officers (SPO) to conduct procurement in accordance with the terms of the appointment and this Part. The employee performing the duties of the SPO must be certified as a professional public buyer or a public purchasing officer by the Universal Public Purchasing Certification Council within 18 months after appointment. In the absence of an SPO, the CPO may designate a temporary acting SPO. The SPO shall exercise procurement authority at the direction of the CPO, and the decisions of an SPO are subject to review by the CPO. The SPO may enter into contracts for the OAG. The SPO shall perform other duties as required by law and may only be removed by the Attorney General for cause.

c) Procurement Policy and Compliance Monitoring Board. The Attorney General shall appoint an OAG Procurement Policy and Compliance Monitoring Board (OAG PPCMB). The OAG PPCMB shall consist of 5 members. In making appointments to the OAG PPCMB, the Attorney General shall consider an individual's knowledge and experience in State government procurements and operations, including but not limited to certification as a professional public buyer

or public purchasing officer by the Universal Public Purchasing Council. The members shall receive no additional compensation for serving on the OAG PPCMB. Except as provided in subsection (d), the OAG PPCMB shall:

1) be authorized to review, oversee, comment upon and recommend rules and practices governing the procurement, management, control and disposal of supplies, services, professional or artistic services, construction and capital improvements procured by the OAG;

2) attend any procurement meetings and access relevant files and reports;

3) be notified by the CPO if a conflict of interest is identified, discovered or reasonably suspected to exist. In such an event, the OAG PPCMB is to recommend action and give its recommendations to the CPO and Attorney General;

4) report to the Inspector General and Attorney General whenever the OAG PPCMB has cause to believe there has been a violation of the Code or this Part;

5) communicate directly with the Attorney General on all matters related to procurement;

6) report to the CPO regarding outstanding procurement problems;

7) ensure transparency and compliance with procurement laws;

8) report findings of waste to OAG divisions. If a division does not correct circumstances causing the waste, the OAG PPCMB shall report to the CPO and the Inspector General; and

9) perform other duties as required by law.

d) Chief Internal Auditor. The Attorney General shall appoint a Chief Internal Auditor. The auditor must have a Bachelor's degree, and must be a certified internal auditor, certified public accountant with at least 4 years of auditing experience, or an auditor with 5 years of experience. Any Chief Internal Auditor appointed on or after July 1, 2010 shall be appointed for a period of 5 years and may only be removed for cause. The Chief Internal Auditor shall report directly to the Attorney General. Subject to the approval of the Attorney General, and

consistent with the Fiscal Control and Internal Auditing Act [20 ILCS 10], the Chief Internal Auditor shall:

1) direct the internal audit functions and activities of the OAG;

2) prepare audit reports and assess program goals;

3) be responsible for the preparation of an annual audit plan for submission to, and subject to the approval of, the Attorney General; and

4) perform other duties as required by law.

~~The Attorney General or his designee shall serve as CPO for purposes of the Code, and may conduct any or all procurements for the OAG. The CPO may appoint one or more SPOs to conduct procurements on behalf of the CPO in accordance with conditions specified in the terms of the appointment.~~

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.1010 Construction**

Any construction or construction related professional and artistic services in excess of the small purchase threshold for construction established by the OAG PPCMB ($30,000, or as adjusted for inflation based on the consumer price index as determined by the OAG PPCMB)~~$30,000 necessary for the OAG~~ will be procured by the CPO ~~of the Capital Development Board or of DCMS~~. The small purchase threshold established by the OAG PPCMB shall not exceed the small purchase threshold established by the Procurement Policy Board (see the Procurement Policy Board's website at ppb.illinois.gov). The CPO may consult with any other CPO created in Section 1-15.15 of the Code for assistance in obtaining any procurement, but shall be responsible for its own procurements under the Code.~~ Any request for such services will be submitted to the CPO-CDB or CPO-DCMS in accordance with CDB or DCMS rules. In the event of an emergency, the CPO may arrange for such construction as is necessary to protect the property and records of the OAG pending the making of arrangements with the CDB or DCMS.~~

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION − GENERAL

**Section 1300.2005 General Provisions**

a) Late Bids or Proposals, Late Withdrawals and Late Modifications

1) Definition. Any bid or proposal received after the time, date and place set for receipt is late. A bid that is delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall be considered, but the OAG will not be responsible for ensuring the subsequent delivery. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals at the place designated for opening is late.

2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless the Procurement Officer, and not a designee, determines it would have been timely but for the action or inaction of OAG personnel directly serving the procurement activity (e.g., providing the wrong address)~~it is received before contract award, and the bid, proposal, modification, or withdrawal would have been timely but for the action or inaction of OAG personnel directly serving the procurement activity~~.

3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.

4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.

b) Extension of Time

1) The Procurement Officer~~The date or time for submitting a bid or proposal or modifying or withdrawing a bid or proposal~~ may, ~~be extended by the CPO or SPO~~ prior to the date or time for submitting or modifying a bid or proposal, extend that ~~such~~ date or time for the convenience of the OAG. Reasons for extension include but are not limited to allowing additional time for submissions to account for inclement weather, labor strikes, accidents and similar~~other such~~ reasons.

2) After opening bids or proposals, the Procurement Officer~~CPO or SPO~~ may request bidders or offerors who submitted timely bids or proposals to extend the time during which the OAG may accept bids or proposals, provided that, with regard to bids, no other change is permitted. The reasons for requesting such extension shall be documented. An extension does not provide an opportunity for others to submit bids or proposals.

c) Electronic and Facsimile Submissions

1) The Invitation for Bids or Request for Proposals may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB~~Invitation for Bids~~ or RFP~~Request for Proposals~~.

2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the OAG at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.

3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.

d) Intent to Submit
The IFB~~Invitation for Bids~~ or RFP~~the Request for Proposals~~ may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB~~Invitation for Bids~~ or RFP~~Request for Proposals~~. Bids and proposals submitted without complying with the notice of intent requirement shall be rejected.

e) Only One Bid or Proposal Received
If only one responsive bid is received, or if only one proposal is received, an award may be made to the single bidder or offeror if the Procurement Officer~~CPO or SPO~~ finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise:

1) new bids or offers may be solicited, including under sole source (Section 1300.2025) or emergency (Section 1300.2030) procedures; or

2) the procurement may be cancelled.~~; or~~
~~3) if the CPO or SPO determines in writing that the need for the supply or service continues, but that the price of the one bid is not fair and~~

~~reasonable and there is no time for resolicitation or resolicitation would likely be futile, the procurement may then be conducted with any vendor under Section 1300.2025 (Sole Source Procurement) or Section 1300.2030 (Emergency Procurements), as appropriate. The CPO or SPO shall also attempt to negotiate the price offered by the single bidder to an acceptable level.~~

f) Alternate or Multiple Bids or Proposals

1) Alternate bids or proposals may be accepted if:

A) permitted by the solicitation and in accordance with instructions in the solicitation;

B) only one vendor responded, in which case the alternate submission(s) may be evaluated and treated in accordance with Section 1300.2025 (Sole Source Procurement) of this Part; or

C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications.~~; or~~

~~D) a vendor clearly indicates a base submission, then that base submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.~~

2) Multiple bids or proposals may be accepted if:

A) permitted by the solicitation and in accordance with instructions in the solicitation; or

B) only one vendor responded, then one or more of the submissions may be evaluated, provided that in the case of bids, only the lowest cost bid meeting specifications may be considered.

3) If a vendor clearly indicates a primary submission among alternate or multiple bids or proposals, then that primary submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.

g) Multiple Items
An IFB~~Invitation for Bids~~ or RFP~~Request for Proposals~~ may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.

h) "All or None" Bids or Proposals
"All or none" bids or proposals may be accepted if the evaluation shows an "all or none" award to be the lowest cost or best value of those submitted. Factors to be used to determine the State's best interest include but are not limited to whether the bid is the lowest of those submitted, reasonableness of the price and the cost and time necessary to solicit other bids.

i) Conditioning Bids or Proposals Upon Other Awards
Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:

1) be rejected unless the vendor removes the condition; or

2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFB~~Invitation for Bids~~ or RFP~~Request for Proposals~~ provided the agency need not delay procurement actions to accommodate the vendor's "all or none" condition.

j) Unsolicited Offers

~~1) Defined. An unsolicited offer is any offer other than one submitted in response to a solicitation.~~

1~~2~~) Processing of Unsolicited Offers. The Procurement Officer~~CPO or SPO~~ may consider unsolicited offers and shall have final authority with respect to evaluation, acceptance and rejection of such unsolicited offers.

2~~3~~) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the OAG.

3~~4~~) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part unless the unsolicited offer meets the requirements for small (Section 1300.2020), sole source (Section 1300.2025), or emergency (Section

1300.2030) procurement.~~Evaluation. The unsolicited offer may be evaluated to determine its utility to the State and whether it would be to the State's advantage to enter into a contract based on such offer. An unsolicited offer which meets the requirements set forth above may be considered for award if the procurement also meets the requirements of Section 1300.2025 (Sole Source Procurement) or Section 1300.2020 (Small Purchases), in which case those procedures shall be followed as applicable.~~

4~~5~~) Confidentiality. Any request for confidentiality of data contained in an unsolicited offer must be made in writing, and vendors must clearly identify any information that is exempt from the disclosure requirements of the Illinois Freedom of Information Act [5 ILCS 140]. If an award is made, confidentiality of data shall be agreed upon by the parties and governed by the provisions of the contract. If agreement cannot be reached on confidentiality, the OAG shall reject the unsolicited offer.

k) Clarification of Bids and Proposals
The Procurement Officer~~CPO or SPO~~ may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to change its bid or proposal in response to a request for clarification.

l) Extension of Time on Indefinite Quantity Contracts
The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Procurement Officer~~CPO or the SPO~~ determines in writing that it is not practical to award another contract at the time of such extension.

m) Increase in Quantity on Definite Quantity Contracts

1) The quantity that may be ordered from a definite quantity contract may be increased by up to 20% provided the Procurement Officer~~CPO or SPO~~ determines that separate bidding for the additional quantity is not likely to achieve lower pricing.~~ The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the small purchase threshold applicable to the type of goods or service.~~

2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the applicable small purchase (Section 1300.2020) threshold.

n) Assignment, Novation or Change of Name

1) Assignment. No OAG contract is transferable, or otherwise assignable, without the written consent of the Procurement Officer~~CPO or the SPO~~, provided, however, that a vendor may assign monies receivable under a contract after due notice to the OAG. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the OAG.

2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee shall agree that:

A) the transferee assumes all of the transferor's obligations;

B) the transferee meets all requirements for contracting with the OAG;

C) the transferor waives all rights under the contract as against the OAG; and

D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the OAG, furnish a satisfactory performance bond.

3) Change of Name. A vendor may submit to the Procurement Officer a written request to change the name in which it holds a contract with the OAG. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.~~When a vendor requests to change the name in which it holds a contract with the OAG, the CPO or SPO responsible for the contract shall, upon receipt of a document indicating such change of name, enter into an agreement with the requesting vendor to effect such a change of name. The agreement changing the name shall specifically indicate that no other terms and conditions of the contract are thereby changed.~~

4) Reports. All change of name or novation agreements effected under this subsection (n) other than by the CPO shall be reported to the CPO within

30 days after the date that the agreement becomes effective.

o) Contracting for Installment Purchase Payments, Including Interest
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].

p) Use of Source Selection Method Not Required
If OAG uses a method of source selection that is not, by law, required to be used (e.g., use of a competitive sealed bid for a small purchase), the OAG is not bound to strict compliance with the Code and rules governing the method of source selection used.

q) Vendor Signature
A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by that officer.

r) Stringing
Dividing or planning procurements to avoid use of competitive procedures (stringing) is prohibited.

s) Documentation of Procurement Actions
Each SPO shall maintain in the procurement or associated contract file all substantive documents and records of communications that pertain to the procurement and any resulting contract. This shall include, as applicable, but is not limited to:

1) The formal request for approval to procure, signed by the Procurement Officer, that establishes the reason for the contract decision or other form of decision memo showing the Procurement Officer approvals to proceed with the contract award;

2) Procurement Bulletin postings;

3) Solicitation document (e.g., IFB) and all amendments, clarifications and Best & Final requests;

4) Vendors' responses, including clarifications and responses to Best & Final requests;

5) Evaluation material (e.g., scoring guidelines and forms; completed score sheets for individual evaluators, including notes; evaluation committee's combined score sheets; evaluation committee's recommendation; and management's decision);

6) Protest and resolution;

7) Contract and any order, change, amendment, renewal or extension;

8) Contractor Performance Reviews;

9) All information from subsections (s)(1) through (8), less information exempt from disclosure under the Freedom of Information Act [5 ILCS 140], shall be prepared and available for inspection and copying, with information from subsections (s)(1) through (5) available on the date any award is posted to the Procurement Bulletin.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2010 Competitive Sealed Bidding**

a) Application
Competitive sealed bidding is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.

b) The Invitation for Bids

1) Use. The IFB~~Invitation for Bids~~ is used to initiate a competitive sealed bid procurement.

2) Content. The IFB~~Invitation for Bids~~ shall include, at a minimum, the following:

A) 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 by the State, and any other special information such as the time and place of any

pre-bid conference;

B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and

C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

3) Incorporation by Reference. The IFB~~Invitation for Bids~~ may incorporate documents by reference provided that the IFB~~Invitation for Bids~~ specifies where such documents can be obtained.

c) Bidding Time
Bidding time is the period of time between the date of notice or distribution of the IFB~~Invitation for Bids~~ and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is allowed in this Part.

d) Bidder Submissions

1) Bid Form. The IFB~~Invitation for Bids~~ shall provide a form that shall include space in which the bid price shall be inserted and that the bidder shall sign and submit along with all other necessary submissions.

2) Bid Samples and Descriptive Literature

A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

B) Unsolicited bid samples or descriptive literature are submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the IFB~~Invitation for Bids~~, and may not be utilized by the vendor to contest a decision or understanding with the State.

e) Public Notice

1) Publication. Every procurement for goods and services in excess of

$25,000 that must be procured using an IFBInvitation for Bids shall be publicized in the Illinois Procurement Bulletin (see Section 1300.1510).

2) Publication in the Bulletin may be supplemented by publication elsewhere at the discretion of the SPO. Examples include publication in:

A) the Official State Newspaper;

B) a newspaper of general circulation;

C) a newspaper of local circulation in the area pertinent to the procurement; or

D) industry media.

23) Public Availability. A copy of the IFBInvitation for Bids shall be made available for public inspection.

34) Distribution. IFBInvitations for Bids or Notices of the Availability of IFBInvitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall indicate where IFBInvitations for Bids may be obtained; generally describe the supply or service desired; and indicate the due date for bids; and may contain other appropriate information such as pre-bid conference data. Where appropriate, the Procurement OfficerCPO or SPO may require payment of a fee or a deposit for the supplying of the IFBInvitation for Bids.

f) Pre-Bid Conferences

Pre-bid conferences may be conducted to enhance understanding of the procurement requirements. They shall be announced to all prospective bidders known to have received an IFBInvitation for Bids. The conference may be designated as attendance mandatory or attendance optional. The conference should be held long enough after the IFBInvitation 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 preparation of bids. Nothing stated in the pre-bid conference shall change the IFBInvitation for Bids unless a change is made by written amendment to the IFBInvitation for Bids. Minutes of the conference shall be supplied to all those prospective bidders known to have received an IFBInvitation for Bids. If the conference is mandatory, the minutes

shall be supplied to attendees only.

g) Amendments to Invitations for Bids

1) Form. Amendments to IFB~~Invitations for Bids~~ shall be identified as such and shall require that the bidder acknowledge receipt of all amendments issued. The amendment shall reference the portions of the IFB~~Invitation for Bids~~ it amends.

2) Distribution. Amendments shall be sent to all prospective bidders known to have received an IFB~~Invitation for Bids~~.

3) Timeliness. Amendments shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.

h) Pre-Opening Modification or Withdrawal of Bids

1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the IFB~~Invitation for Bids~~ prior to the time and date set for bid opening. A fax modification or withdrawal, or withdrawal received by telephone prior to the time and date set for bid opening, will be effective if followed in writing.

2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

i) Receipt, Opening and Recording of Bids

1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.

2) Opening and Recording

A) Bids and modifications shall be opened publicly, in the presence of one or more witnesses, at the time, date, and place designated in the IFB~~Invitation for Bids~~. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer~~CPO or SPO~~, shall be recorded and the name of each bidder read aloud or otherwise made available. The names of required witnesses shall also be recorded at the opening.

B) The winning bid shall be available for public inspection after award, along with the record of the other bids.

3) Confidential Data. The Procurement Officer~~CPO or SPO~~ shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data or other information, the bid shall be rejected as nonresponsive.

j) Bid Evaluation and Award

1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the IFB~~Invitation for Bids~~, except as permitted in this Section. The IFB~~Invitation for Bids~~ shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the IFB~~Invitation for Bids~~.

2) Responsibility. Responsibility of prospective contractors is covered by Section 1300.2046~~(Responsibility) of this Part~~.

3) Responsiveness. Section 15-85 of the ~~Illinois Procurement~~ Code defines *responsive bidder* as *a person who has submitted a bid that conforms in all material respects to the Invitation for Bids.*

A) Product or Service Acceptability. The IFB~~Invitation for Bids~~ shall set forth any evaluation criteria to be used in determining product

or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;

ii) examination of such elements as appearance, finish, taste, or feel; or

iii) other examinations to determine whether it conforms with any other purchase description requirements.

B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the IFB~~Invitation for Bids~~. Any bidder's offering which does not meet the acceptability requirements shall be rejected.

4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the OAG in accordance with the evaluation criteria set forth in the IFB~~Invitation for Bids~~. Only objectively measurable criteria that are set forth in the IFB~~Invitation for Bids~~ shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. While evaluation factors need not be precise predictors of actual future costs, they should be, to the extent possible, reasonable estimates based upon information the OAG has available concerning future use and shall provide for equitable treatment of all bids. Pricing for optional goods or services or for renewal terms may be considered particularly when the pricing for such items or terms is unbalanced when compared to other pricing in the bid.

5) Price Negotiation. This Section permits negotiations with the low bidder to obtain a lower price for the item bid.

k) Documentation of Award

Following award, a record showing the successful bidder shall be made a part of the procurement file.

l) Award to Other Than Low Bidder

1) The Procurement Officer~~CPO or SPO~~ may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. ~~Factors used to determine the State's best interest include but are not limited to the quality of goods or services, responsibility of the bidder pursuant to Section 1300.2046 of this Part, any proposed conditions or options and preferences set forth at Subpart O of this Part.~~ The written explanation~~The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder~~ must be published in the appropriate volume of the Bulletin.

2) This action may be appropriate when the difference in quality of goods or services or speed of delivery is so great as compared to the difference in price, and considering the needs of the OAG, that a best value award is justified. However, if the difference in price is significant, the Procurement Officer may not utilize this provision.

3) The explanation must include:

A) a description of the OAG's needs;

B) a determination that the anticipated cost will be fair and reasonable;

C) a listing of all reasonable and responsive bidders; and

D) the name of the bidder selected, pricing and the reasons for selecting that bidder.

4) The explanation shall be filed with the Legislative Audit Commission and the OAG PPCMB.

m) Publicizing Award
The successful bidder shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 1300.2020 of this Part,

notice of award shall be published in the Bulletin.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2012 Multi-Step Sealed Bidding**

a) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the OAG, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase, have their price bids considered.

b) Conditions for Use. The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description which will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:

1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and

2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.

c) Pre-Bid Conferences in Multi-Step Sealed Bidding
Prior to the submission or evaluation of unpriced technical offers, a pre-bid conference as contemplated by Section 1300.2010 (Competitive Sealed Bidding) and Section 1300.2012 (Multi-Step Sealed Bidding) may be conducted by the Procurement Officer~~CPO or SPO~~.

d) Procedure for Phase One of Multi-Step Sealed Bidding

1) Form. Multi-step sealed bidding shall be initiated by the issuance of an IFB~~Invitation for Bids~~ in the form required by Section 1300.2010 (Competitive Sealed Bidding), except as hereinafter provided. In addition to the requirements set forth in Section 1300.2010, the multi-step IFB~~Invitation for Bids~~ shall state:

A) that unpriced technical offers are requested;

B) whether priced bids are to be submitted at the same time as unpriced technical offers and, if they are, that such priced bids shall be submitted in a separate sealed envelope;

C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;

D) the criteria to be used in the evaluation of the unpriced technical offers;

E) that the OAG, to the extent the Procurement Officer~~CPO or SPO~~ finds necessary, may conduct oral or written discussions of the unpriced technical offers; and

F) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the IFB~~Invitation for Bids~~.

2) Amendments to the IFB~~Invitation for Bids~~. After receipt of unpriced technical offers, amendments to the IFB~~Invitation for Bids~~ shall be distributed only to bidders who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the Procurement Officer~~CPO or SPO~~, a contemplated amendment will significantly change the nature of the procurement, the IFB~~Invitation for Bids~~ shall be cancelled in accordance with Section 1300.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) of this Part and a new IFB~~Invitation for Bids~~ issued.

3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one witness. Such offers shall not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.

4) Evaluation of Unpriced Technical Offers. The unpriced technical offers

submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the IFB~~Invitation for Bids~~. The unpriced technical offers shall be categorized as:

A) acceptable;

B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or

C) unacceptable, in which case the Procurement Officer~~CPO or SPO~~ shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

5) The Procurement Officer~~CPO or SPO~~ may initiate Phase Two of the procedure if, in the Procurement Officer's~~CPO's or SPO's~~ opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the Procurement Officer~~CPO or SPO~~ finds that such is not the case, the Procurement Officer~~CPO or SPO~~ may commence discussions of the unpriced technical proposals.

6) Discussion of Unpriced Technical Offers. The Procurement Officer~~CPO or SPO~~ may conduct discussions with any vendor who submits an acceptable or potentially acceptable technical offer. During the course of such discussions, the Procurement Officer~~CPO or SPO~~ shall not disclose any information derived from one unpriced technical offer to any other bidder. Any such bidder may submit supplemental information amending its technical offer at any time until the closing date established by the Procurement Officer~~CPO or SPO~~. Such submission may be made at the request of the Procurement Officer~~CPO or SPO~~ or upon the bidder's own initiative.

7) Unacceptable Unpriced Technical Offer. When the Procurement Officer~~CPO or SPO~~ determines a bidder's unpriced technical offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer.

e) Procedure for Phase Two

1) Initiation. Upon the completion of Phase One, the Procurement

Officer~~CPO or SPO~~ shall either:

A) open priced bids submitted in Phase One (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or

B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.

2) Conduct. Phase Two shall be conducted as any other competitive sealed bid procurement except:

A) no public notice need be given of this invitation to submit priced bids because such notice was previously given;

B) after award, the unpriced technical offer of the successful bidder shall be disclosed as follows: The Procurement Officer~~CPO or SPO~~ shall examine written requests of confidentiality for trade secrets and proprietary data in the technical offer of such bidder to determine the validity of any such requests. If the parties do not agree as to the disclosure of data, the Procurement Officer~~CPO or SPO~~ shall reject the offer. Such technical offer shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data; and

C) unpriced technical offers of bidders who are not awarded the contract shall not be open to public inspection.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2015 Competitive Sealed Proposals**

a) Competitive Sealed Proposals may be used whenever permitted by the Code and as described in this Part.

b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories:

1) electronic data processing equipment, software, and services;

2) telecommunications equipment, software, and services;

3) consulting services; and

4) employee benefits and insurance.

c) Competitive Sealed Proposals may be used on a case-by-case basis when it is determined by the Procurement Officer~~CPO or SPO~~ that competitive sealed bidding is either not practicable or advantageous.

1) "Practicable" Distinguished from "Advantageous." As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois Procurement Code and this Section, the term "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental 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 Procurement Officer~~CPO or SPO~~ shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the OAG.

2) General Discussion

A) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals should be used.

B) The key element in determining relative advantage is the need for flexibility. The competitive sealed proposal method differs from competitive sealed bidding in two important ways:

i) it permits discussions with competing offerors and changes in their proposals, including price; and

ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.

C) 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, judgmental evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration, use of competitive sealed proposals is the appropriate procurement method.

3) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the IFB~~Invitation for Bids~~. Factors to be considered in determining whether competitive sealed bidding is not practicable include:

A) whether the contract needs to be other than a fixed-price type;

B) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;

C) whether offerors may need to be afforded the opportunity to revise their proposals, including price;

D) whether award may need to be based upon a comparative evaluation as stated in the RFP~~Request for Proposals~~ of differing price, quality (which includes technical and performance capability and the content of the technical proposal), and contractual factors in order to determine the most advantageous offering to the OAG; and

E) whether the primary consideration in determining award may not be price.

4) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the OAG, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:

A) whether prior procurements indicate that competitive sealed

proposals may result in more beneficial contracts for the OAG; and

B) whether the factors listed in subsection (c)(3) of this Section are desirable in conducting a procurement rather than necessary.

d) Content of the Request for Proposals
The RFP~~Request for Proposals~~ shall be prepared in accordance with Section 1300.2010 (Competitive Sealed Bidding) provided that it shall also include:

1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and

2) a statement of when and how price should be submitted.

e) Receipt and Registrations of Proposals
Proposals shall not be opened publicly but shall be opened in the presence of at least one witness. Proposals and modifications shall be time-stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of proposals, a Register of Proposals shall be prepared which shall include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The Register of Proposals shall be open to public inspection after award of the contract.

f) Evaluation of Proposals

1) Evaluation Factors in the RFP~~Request for Proposals~~. The RFP~~Request for Proposals~~ shall state all of the evaluation factors, including price, and their relative importance.

2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the RFP~~Request for Proposals~~. Factors not specified in the RFP ~~Request for Proposals~~ shall not be considered. Numerical rating systems may be used but are not required.

3) Classifying Proposals. For the purpose of conducting discussions, proposals shall be initially classified as:

A) acceptable;

B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or

C) unacceptable.

4) Offerors whose proposals are unacceptable shall be so notified promptly.

g) Proposal Discussions with Individual Offerors

1) "Offerors" Defined. For the purposes of Section 20-15(f) (Competitive Sealed Proposals, Discussion with Responsible Offerors and Revisions of Proposals) of the Illinois Procurement Code and this Section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses who submitted unacceptable proposals.

2) Purposes of Discussions. Discussions are held to:

A) promote understanding of the OAG's requirements and the offerors' proposals; and

B) facilitate arriving at a contract that will be most advantageous to the OAG, taking into consideration price and the other evaluation factors set forth in the RFP~~Request for Proposals~~.

3) Conduct of Discussions. Offerors shall 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 RFP~~Request for Proposals~~, the Request shall be amended to incorporate such clarification or change. Auction techniques (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.

4) Best and Final Offers. The Procurement Officer~~CPO or SPO~~ may request best and final offers with a common date and time for submission of best and final offers. The Procurement Officer~~CPO or SPO~~ may conduct additional discussions or change the OAG'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 immediate previous offer will be construed as its best and final offer.

h) Award
An award shall be made by the Procurement Officer~~CPO or SPO~~ pursuant to a written determination showing the basis on which the award was found to be most advantageous to the OAG, based on the factors set forth in the RFP~~Request for Proposals~~.

i) Publicizing Awards
After a contract is entered into, notice of award shall be posted in the Procurement Officer's~~CPO's or SPO's~~ office. When the award exceeds the small purchase limit set in Section 1300.2020 of this Part, notice of award shall be published in the Bulletin.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2025 Sole Source Procurement**

a) Application
The provisions of this Section apply to procurement from a sole source unless the estimated amount of the procurement is within the limit set in Section 1300.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1300.2030 (Emergency Procurements)~~ of this Part~~.

b) Conditions for Use of Sole Source Procurement
Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. 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. The following are examples of circumstances that could necessitate sole source procurement:

1) ~~where~~ the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;

2) ~~where~~ a sole supplier's items are needed for trial use or testing;

3) ~~where~~ a sole supplier's item is to be procured for commercial resale;

4) ~~where~~ public utility regulated services are to be procured; ~~or~~

5) ~~where~~ the item is copyrighted or patented and the item is not available except from the holder of the copyright or patent;~~.~~

6) the procurement of the media for advertising;

7) the procurement of art or entertainment services; and

8) changes to existing contracts (subsection (c)).

c) Changes

1) Changes to existing contracts germane to the original contract, which are necessary or desirable to complete the project, and which can be best accomplished by the contract holder, may be procured under this provision if the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.

2) A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 1300.2020, or that is an emergency as defined in Section 1300.2030, may be made in accordance with procedures governing those Sections and need not comply with these sole source procedures. A change in the length of the contract that does not exceed 30 days and other minor, immaterial changes to the scope or administrative provisions of a contract shall not be considered changes subject to these sole source procedures.

d) Procurement Officer to Determine

1) The determination as to whether a procurement shall be made as a sole source shall be made by the CPO after notice and a public hearing pursuant to Section 1300.5555. The determination and the basis for the determination shall be in writing. The Procurement Officer may specify the application of the determination and the duration of its effectiveness.

2) Any purchase request submitted to the CPO suggesting that a procurement be restricted to one potential vendor shall be accompanied by a written

explanation as to why no other vendor will be suitable or acceptable to meet the need.

~~d) The determination as to whether a procurement shall be made as a sole source shall be made by the CPO or SPO. Such determination and the basis therefor shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness. Any request to the CPO that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.~~

~~e) The OAG, having defined a sole source, shall publish notice of intent to contract with that vendor in the Bulletin at least 14 days prior to execution of the contract.~~

~~1) If no challenge to this determination is made by a vendor within the 14-day period, the CPO or SPO may execute a contract with that vendor.~~

~~2) If a challenge is received, the CPO or SPO shall consider the information and shall commence a competitive procurement if the CPO or SPO is convinced the sole source designation is not appropriate, unless an emergency situation now exists.~~

e~~f~~) Negotiation in Sole Source Procurement
The Procurement Officer~~CPO or SPO~~ shall conduct negotiations, as appropriate, as to price, delivery, and terms, and shall maintain a record of sole source procurements showing:

1) the vendor's name;

2) the amount and type of the contract;

3) a listing of the supplies, services, or construction procured under each contract; and

4) the identification number of the contract file.

f) Prohibition Against Amending Contracts for Professional or Artistic Services Based on Sole Source
The provisions of this Part shall not apply to an amendment to a contract for professional or artistic services if:

1) there is an increase in the amount paid under the contract of more than 5% of the initial award; or

2) the term of the contract would be extended by a period not to exceed the time reasonably needed for a competitive procurement or 2 months, whichever is less.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2030 Emergency Procurements**

a) Applications
The provisions of this Section apply to every procurement over the small purchase limit set in Section 1300.2020 of this Part and that is not a sole source procurement under Section 1300.2025, made under emergency (including quick purchase) conditions.

b) Definition of Emergency Conditions

1) A procurement may be made under this Section in situations in which:

A) public health or safety, including the health or safety of any particular person, is threatened;

B) repairs are needed to OAG property to protect against further loss or damage to OAG property, or to prevent loss or damage to OAG property;

C) action is needed to prevent or minimize serious disruption in OAG services;

D) action is needed to ensure the integrity of State or OAG records;

E) a supplier of needed goods or services announces bankruptcy, going out of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is in the State's best interest;

F) commodity items are available on the spot market at prices such that good business judgment mandates a purchase if the spot price

must be taken immediately;

G) legal services to assist in the formulation of policy, in drafting or evaluating documents, or in determining the extent of statutory authority are needed sooner than the competitive process would allow; ~~or~~

H) equipment or services are necessary in the furtherance of covert activities lawfully conducted by the OAG. Any required disclosures shall be made so as not to jeopardize those covert activities;~~.~~

I) immediate action is necessary to avoid lapsing or loss of federal or donated funds;

J) the need for items to protect or further the State's interests is immediate and use of other competitive source selection procedures under the Code and this Part cannot be accomplished without significant risk of causing serious disadvantage to the State; or

K) immediate action is necessary to protect the collection of substantial State revenue.

2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

3) Extension to Allow Competition. Extending an existing contract for the period of time needed to conduct a competitive method of source selection if terminating or allowing the contract to terminate would not be advantageous to the State.

4) Quick Purchase

A) A supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason so that making a purchase immediately is more advantageous to the State than instituting a competitive procurement under the provisions of the Code and this Part for the supplies or services;

B) Items are available on the spot market or at discounted prices for a limited time, so that good business judgment mandates a purchase immediately to take advantage of the availability and price;

C) Availability of rare items such as books of historical value.

c) Scope of Emergency Conditions

1) Emergency procurement shall be limited to those supplies, services, or construction items necessary to meet the emergency need.

2) Emergency procurements shall be limited to the time reasonably needed for a competitive procurement, but in no event shall that time period exceed 90 days unless the CPO determines additional time is needed.

3) In the event an emergency procurement exceeds 90 days, the contract scope and duration may be extended after notice and a public hearing as set out in Section 1300.5555. The extension shall be limited in items, quantity and days.

d) Authority to Make Emergency Procurements
Emergency procurements may be made when an emergency condition arises and the need cannot be met through normal procurement methods, provided that, whenever practical, existing OAG contracts shall be utilized and, whenever practical, approval by the CPO shall be obtained prior to the procurement. The Procurement Officer~~CPO or SPO~~ shall be responsible for making the filings required in Section 20-30 of the Code.

e) Source Selection Methods
Any method of source selection, whether or not identified in the Code or this Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required supplies, services, or construction items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.

f) Determination and Record of Emergency Procurement

1) Determination. The Procurement Officer~~CPO or SPO~~ responsible for the procurement shall make a written determination stating the basis for an emergency procurement and for the selection of the particular contractor. The determination~~Such determinations~~ shall be kept in the contract file with a copy sent promptly to the CPO and the OAG PPCMB.

2) Record. A record of each emergency procurement shall be filed by the CPO with the OAG PPCMB within 10 days after the procurement,~~made as soon as practicable~~ and shall include the following information:

A) the vendor's name;

B) the amount and type of the contract, provided that, if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;

C) a description of what the vendor will do or provide, such as a listing of the supplies and services to be procured; and

D) the reasons for using the emergency method of source selection.

3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.

g) Extension of Emergency
In the event an emergency procurement exceeds 90 days, the emergency procurement may be extended after notice and a public hearing pursuant to Section 1300.5555. Prior to the execution of the extension:

1) the CPO must determine additional time is necessary;

2) the contract scope and duration must be limited to the emergency;

3) a public hearing must be held;

4) the CPO must provide written justification for the emergency contract;

5) notice of the intent to extend shall be provided to the OAG PPCMB and published in the Bulletin in accordance with Subpart D of this Part.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2035 Competitive Selection Procedures for Professional and Artistic Services**

a) Application
The provisions of this Section apply to every procurement of professional and artistic services except those professional and other services necessary to prepare for anticipated litigation, enforcement actions or investigations, which are exempt from the requirements of the Code and this ~~This~~ Part. *"Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability* [30 ILCS 525/1-15.60].

b) Professional and artistic services are further defined as follows:

1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the RFP~~Request for Proposals~~.

2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the RFP~~Request for Proposals~~.

3) "Qualified by technical ability" means the individual who would perform the services must demonstrate a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the RFP~~Request for Proposals~~.

4) An essential element distinguishing professional and artistic services from other services is confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service. These services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts. (See Illinois Attorney General Opinion S-256, January 20, 1971.)

5) If the professional or artistic contract is with a firm or other business

entity, the individuals whose education, experience and technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.

6) When a State agency requires services that meet the requirements of this subsection (b), the competitive selection procedures described in this Section must be followed. Services that do not meet the requirements of this Section must be procured in accordance with other methods of source selection authorized by the Code and this Part.

c) The categories of services enumerated below shall be considered and procured as professional and artistic services. With regard to other services, the SPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require such services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:

1) law;

2) accounting;

3) medicine;

4) dentistry; and

5) clinical psychology.

d) Conditions for Use of Competitive Selection Procedures
Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the ~~Illinois Procurement~~ Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of $20,000 or more. Any procurement of such services in an amount of less than $20,000 and for a nonrenewable term of less than one year may be procured in accordance with Section 1300.2020 (Small Purchases) of this Part.

e) Determinations Required Prior to Use of Competitive Selection Procedures
The CPO shall determine in writing, prior to announcing the need for any such

services:

1) that the services to be acquired are professional or artistic;

2) the nature of the relationship to be established between the OAG and the vendor by the proposed contract; and

3) that the OAG has developed, and fully intends to implement, a written plan for utilizing such services which will be included in the contractual statement of work.

f) Prequalification
The CPO shall maintain a list of prequalified professional and artistic vendors in accordance with Sections 1300.2044 and 1300.2045 of this Part. Persons may amend statements of qualifications at any time by filing a new statement.

g) Public Notice in Competitive Selection Procedures
Notice of the need for professional and artistic services shall be made by the Procurement Officer~~CPO or SPO~~ in the form of an RFP~~a Request for Proposals~~. Adequate public notice shall be given as provided in Section 1300.2010 (Competitive Sealed Bidding, Public Notice), and additionally may consist of distributing Requests for Proposals to prequalified persons interested in performing the services required by the proposed contract.

h) Request for Proposals

1) Contents. The RFP~~Request for Proposals~~ shall be in the form specified by the CPO and contain at least the following information:

A) the type of services required;

B) a description of the work involved;

C) an estimate of when and for how long the services will be required;

D) the type of contract to be used;

E) a date by which proposals for the performance of the services shall be submitted;

F) a statement of the minimum information that the proposal shall contain, which shall include:

i) the name of the offer or, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;

ii) if deemed relevant by the Procurement Officer~~CPO or SPO~~, the age of the offeror's business and average number of employees over a previous period of time, as specified in the RFP~~Request for Proposals~~;

iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;

iv) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFP~~Request for Proposals~~;

v) a plan giving as much detail as is practical explaining how the services will be performed;

G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and

H) the factors to be used in the evaluation and selection process and their relative importance.

2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the RFP~~Request for Proposals~~. Price will not be evaluated until after selection of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:

A) the plan for performing the required services;

B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the

required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;

C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and

D) a record of past performance of similar work.

i) Pre-Proposal Conferences
Pre-proposal conferences, as appropriate, may be conducted in accordance with Section 1300.2010 (Competitive Sealed Bidding).

j) Receipt and Handling of Proposals
Registration. Proposals and modifications shall be sent to the Procurement Officer~~CPO or SPO~~ as directed in the solicitation and shall be time-stamped upon receipt and held in a secure place until the established due date and time, at which time they will be opened by the Procurement Officer~~CPO or SPO~~. Proposals shall not be opened publicly nor disclosed to unauthorized persons, but shall be opened in the presence of at least one witness. A register of proposals shall be established which shall include, for all proposals, the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the services offered. The register of proposals shall be open to public inspection only after award of the contract.

k) Request for Nondisclosure of Data
If the offeror selected for award has requested in writing the nondisclosure of trade secrets and other proprietary data so identified, the head of the agency conducting the procurement or a designee of such officer shall examine the request in the proposal to determine its validity prior to entering negotiations. If the parties do not agree as to the disclosure of data in the contract, the Procurement Officer~~CPO or SPO~~ shall reject the proposal.

l) Discussions

1) Discussions Permissible. The Procurement Officer~~CPO or SPO~~ shall evaluate all proposals submitted and may conduct discussions with any offeror. The purposes of such discussions shall be to:

A) determine in greater detail such offeror's qualifications; and

B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach.

2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection.

m) Selection of the Best Qualified Offerors
After conclusion of validation of qualifications, evaluation, and discussion, the Procurement Officer~~CPO or SPO~~ shall rank the acceptable offerors in the order of their respective qualifications.

n) Evaluation of Pricing Data
Pricing submitted for all acceptable proposals shall be opened and ranked. If the low price is submitted by the most qualified vendor, negotiation of price shall commence. If the price of the most qualified is not low and if it is under $25,000, the Procurement Officer, but not a designee,~~CPO or SPO~~ may award to that vendor. If the price is over $25,000, the Procurement Officer, but not a designee,~~CPO or SPO~~ must state why the qualifications were deemed more important than price and such determination shall be published in the Bulletin.

o) Negotiation and Award of Contract

1) General. The Procurement Officer~~CPO or SPO~~ shall negotiate a contract with the best qualified offeror for the required services at compensation determined in writing to be fair and reasonable.

2) Elements of Negotiation. Contract negotiations shall be directed toward:

A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;

B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required

time; and

C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity, and nature of such services.

3) Successful Negotiation of Contract with Best Qualified Offeror. If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is cancelled.

4) Failure to Negotiate Contract with Best Qualified Offeror.

A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons for the lack of agreement~~therefor~~ shall be placed in the file and the Procurement Officer~~CPO or SPO~~ shall advise the ~~such~~ offeror of the termination of negotiations.

B) Upon failure to negotiate a contract with the best qualified offeror, the Procurement Officer~~CPO or SPO~~ may enter into negotiations with the next most qualified offeror, and so on in that manner until an award is made or the procurement is cancelled.

p) Notice of Award
Written notice of award shall be public information and made a part of the contract file. The CPO shall publish the names of the responsible decision makers of the OAG, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.

q) A CPO may allow the SPO responsible for conducting a small, sole source or emergency procurement of professional and artistic services to publish notices of those procurements.

r) Post Performance Review
The SPO shall require the using division to provide a synopsis of the contract and shall rate the vendor's performance using the form developed by the SPO. A copy of the completed form shall be provided to the SPO.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2036 Other Methods of Source Selection**

a) Split Award

1) An award of a definite quantity requirement may be split between or among two or more contractors. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.

2) The Procurement Officer~~CPO or SPO~~ shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.

b) Multiple Award

1) A multiple award is an award of an indefinite quantity contract to more than one bidder or offeror when the OAG is obligated to order all of its actual requirements from those vendors.

2) A multiple award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 1300.2010 (Competitive Sealed Bidding), Section 1300.2015 (Competitive Sealed Proposals), Section 1300.2020 (Small Purchases), and Section 1300.2030 (Emergency Procurements), as applicable. Awards shall not be made for the purpose of simply dividing the business or to select products or suppliers in accordance with user preference unrelated to utility or economy. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of the OAG.

3) The OAG shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.

4) If a multiple award is anticipated, the solicitation shall state this fact as

well as the criteria for award.

c) Auction
Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.

d) Non-governmental Joint Purchase
The Procurement Officer~~CPO or SPO~~ may enter into an agreement with a person not eligible for the Governmental Joint Purchasing Act for the joint procurement of anything covered by the Code. Any method of source selection may be used and may be modified or adapted to meet the needs of the non-State entity.

e) Federal Requirements
Requirements of the Code and this Part may be modified or adapted to meet federal requirements.

f) Donations
With approval of the CPO, when the OAG receives a donation that provides the majority of the funding, the OAG may follow any procurement or contracting requirements established as a condition of the donation, but shall follow the Code and this Part to the extent practicable.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2037 Tie Bids and Proposals**

a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or valuation.

b) Tie bids or proposals will be treated as follows:

1) If the tied vendors include only one Illinois resident vendor, the Illinois resident vendor shall be given the award. "Illinois resident vendor" has the meaning given in Section 1300.4510 of this Part. In all other situations, the decision shall be made in accordance with subsections (b)(2) through (5) of this Section. If two or more Illinois resident vendors are tied, award will be made pursuant to subsections (b)(2) through (5).

2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State or OAG shall be given additional consideration in determining responsibility if the Procurement Officer~~CPO or SPO~~ determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.

3) If there is no significant difference in responsibility, but there is a difference in the quality of the goods or services offered, the vendor offering the best quality will be accepted.

4) If there is no significant difference in responsibility and no difference in quality of the goods or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the OAG require as early delivery as possible.

5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the Procurement Officer~~CPO or SPO~~ determines that splitting the award among two or more of the tied bidders is in the best interest of the State. Awards may be split if all affected bidders agree, if splitting is feasible given the type of goods or service requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.

c) Record
Records shall be made of all procurements on which tie bids or proposals are received, showing at least the following information:

1) the identification number of the solicitation;

2) the supply, service, or construction item; and

3) a listing of all the bidders and the prices submitted.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2038 Mistakes**

a) General
Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other bidders.

b) Mistakes Discovered Before Opening
A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.

c) Confirmation of Mistake
When the Procurement Officer~~CPO or SPO~~ knows or has reason to conclude that a mistake has been made, such officer shall request the vendor 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. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.

d) Mistakes in Bids Discovered After Opening but Before Award
This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.

1) 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 of a bid from the exact requirement of the IFB~~Invitation for Bids~~, the correction or waiver of which would not be prejudicial to the OAG (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The Procurement Officer~~CPO or SPO~~ shall waive such informalities or allow the bidder to correct them depending on which is in the best interest of the State. Examples of minor informalities as to form include the failure of a bidder to:

A) return the number of signed bids required by the IFB~~Invitation for Bids~~;

B) sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound, including but

not limited to signature on an auxiliary form, submission of a bid guarantee or submission of a signed transmittal letter; or

C) acknowledge receipt of an amendment to the IFB~~Invitation for Bids~~, but only if:

i) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or

ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.

2) Mistakes Where Intended Correct Bid Is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

3) Mistakes Where Intended Correct Bid Is Not Evident. A bidder may be permitted to withdraw a low bid if:

A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or

B) the bidder submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.

e) Mistakes Discovered After Receipt of Proposals but Before Award
This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.

1) During Discussions; Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of best and final offers.

2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated as they are under competitive sealed bidding. (See subsection (d)~~ above~~.)

3) Corrections of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:

A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or

B) the mistake is not clearly evident on the face of the proposal, but the offeror submits adequate proof that clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.

4) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:

A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;

B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or

C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.

f) Mistakes Discovered After Award
Mistakes shall not be corrected after award of the contract except when ~~where~~ the Procurement Officer~~CPO or SPO~~ finds it would be unconscionable not to allow the mistake to be corrected, such as obvious typographical or calculation errors.

g) Determinations Required
When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The Procurement Officer~~CPO or SPO~~ shall prepare the determination.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2040 Cancellation of Solicitations; Rejection of Bids or Proposals**

a) Scope of this Section
The provisions of this Section shall govern the cancellation of any solicitations whether issued by the OAG under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.

b) Policy
Any solicitation may be cancelled when the Procurement Officer~~CPO or SPO~~ believes cancellation to be in the State's best interest. (See subsection (c)(2) below.) Nothing shall compel the award of a contract.

c) Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening

1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.

2) Prior to opening, a solicitation may be cancelled in whole or in part when the Procurement Officer~~CPO or SPO~~ determines in writing that such action is in the State's best interest for reasons including, but not limited to:

A) the OAG no longer requires the supplies, services, or construction;

B) the OAG no longer can reasonably expect to fund the procurement; ~~or~~

C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable;~~.~~

D) ambiguous or otherwise inadequate specifications;

E) the solicitation did not provide for consideration of all factors of significance to the OAG;

F) prices exceed available funds and it would not be appropriate to adjust quantities to accommodate funding constraints;

G) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or

H) there is reason to question whether the bids or proposals may not have been arrived at independently in open competition, may have been the result of collusion or may have been submitted in bad faith.

3) When a solicitation is cancelled prior to opening, notice of cancellation shall be sent to all businesses solicited.

4) The notice of cancellation shall:

A) identify the solicitation;

B) briefly explain the reason for cancellation; and

C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies, services, or construction.

d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening

1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the Procurement Officer~~CPO or SPO~~ determines in writing that the~~such~~ action is in the State's best interest, for reasons including, but not limited to:

A) the supplies, services, or construction being procured is no longer required;

B) ambiguous or otherwise inadequate specifications were part of the solicitation;

C) the solicitation did not provide for consideration of all factors of significance to the OAG;

D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;

E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or

F) there is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

2) When the solicitation is cancelled or when all bids or proposals are rejected, all vendors who submitted bids or proposals shall be sent a notice informing them of the cancellation or rejection.

e) Documentation
The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

f) Rejection of Individual Bids or Proposals

1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.

2) Notice in Solicitation. Each solicitation issued by the OAG shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this subsection (f).

3) Reasons for Rejection.

Reasons for rejecting a bid or proposal may include, but are not limited to:

A) the business that submitted the bid or proposal is nonresponsible as determined under Section 1300.2046 of this Part;

B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;

C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the OAG in some material respect;

D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the IFB~~Invitation for Bids~~; or

E) the proposed price is clearly unreasonable.

4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.

g) Disposition of Bids or Proposals
When bids or proposals are rejected, or a solicitation cancelled after bids or proposals are received, the bids or proposals that have been opened shall be retained in the procurement file, or if unopened, returned to the bidders or offerors upon request, or otherwise disposed of.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

**Section 1300.2044 Vendor List/Required Use**

a) The CPO may maintain a list of vendors interested in doing business with the OAG. Lists of names and addresses of bidders shall be available for public inspection.

b) Inclusion or exclusion from the vendor list of the name of a business does not indicate whether the business is responsible in respect to a particular procurement or otherwise capable of successfully performing a State contract.

c) Invitations for Bids and other solicitations will be sent to vendors on the vendor list for goods or services in question, except in the following cases:

1) The vendor does not sell the particular commodity or equipment;

2) When the number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list, the OAG may, if it determines that the best interest of the State would be served, rotate the selection from the list on

any equitable basis; or

3) The IFB~~Invitations for Bids~~ may be confined to bidders in a limited geographical service area, when the OAG determines that the best interests of the State will be served by so doing (example: purchases of ready-mix concrete, perishables, and equipment requiring periodic service).

d) The Procurement Officer~~CPO or SPO~~ in the OAG may alternatively refer to vendor lists maintained by DCMS.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2045 Prequalification**

a) General

1) The CPO may require that vendors be prequalified as a condition of being placed on the bid list. If so, vendors shall be given an opportunity to prequalify at least one time per year. The opportunity to prequalify, and whether prequalification will be a condition of bidding or being awarded a contract, shall be announced in the Bulletin.

2) The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.

3) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified.

b) Professional and Artistic Services
When the services are needed on a recurring basis, the CPO shall actively solicit persons engaged in providing such services to submit annual statements of qualifications in a prescribed format that shall include the following information:

1) technical education and training;

2) general or special experience, certifications, licenses, and memberships in professional associations, societies, or boards;

3) an expression of interest in providing a particular professional or artistic service; and

4) any other pertinent information requested by the Procurement Officer~~CPO or SPO~~.

c) Qualified Products Lists
Qualified products lists are treated in Section 1300.2050 (Specifications and Samples) of this Part.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.2046 Responsibility**

a) Application
Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the OAG's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.

b) Standards of Responsibility

1) Standards. Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective vendor:

A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain same) necessary to indicate its capability to meet all contractual requirements;

B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;

C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable

control of the vendor;

D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that would make contracting with that vendor undesirable may be declared not responsible for the particular procurement;

E) is qualified legally to contract with the State;

F) has supplied all necessary information in connection with the inquiry concerning responsibility;

G) has a current Public Contracts number from the Illinois Department of Human Rights pursuant to 44 Ill. Adm. Code 250.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination; and

H) pays prevailing wages, if required by law.

2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer~~CPO or SPO~~ concerning the responsibility of such vendor. The State may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Procurement Officer~~CPO or SPO~~ shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.

c) Ability to Meet Standards
The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

1) evidence that such vendor possesses such necessary items;

2) acceptable plans to subcontract for such necessary items; or

3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

d) Duty Concerning Responsibility
Before awarding a contract, the Procurement Officer~~CPO or SPO~~ must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of award or execution of contract, whichever is later.

e) Written Determination of Nonresponsibility Required
If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the Procurement Officer~~CPO or the SPO~~. A copy of the determination shall be sent promptly to the nonresponsible vendor. The final determination shall be made part of the procurement file.

f) Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required for such bidders.

g) Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing nonresponsible vendor will be declared nonresponsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier declaration of nonresponsibility.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

**Section 1300.2047 Security Requirements**

a) The Procurement Officer~~CPO or SPO~~ may require that a vendor furnish bid, proposal, or performance security on OAG contracts. Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security.

b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.

c) Unless the amount is set by law, the Procurement Officer~~CPO or SPO~~ will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests.

d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for similar reasons.

e) Permissive/Mandatory Security

1) Bid or proposal security is permissive on any contract but is not appropriate on emergency or sole source procurements.

2) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.

3) Performance security is required on all public works contracts.

f) A vendor may submit a single or continuous security each year that will be applicable on all contracts of the OAG. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.

g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART H: SPECIFICATIONS AND SAMPLES

**Section 1300.2050 Specifications and Samples**

a) ~~CPO's~~ Responsibilities Regarding Specifications

1) The Procurement Officer~~CPO or SPO~~ is authorized to write specifications for procurements for the OAG.

2) When a written determination is made by the Procurement Officer~~CPO or SPO~~ authorized to prepare the ~~such~~ specifications that there will be no substantial conflict of interest involved and it is otherwise in the best

interest of the State, a contract to prepare specifications for OAG use in procurement of supplies or services may be entered into provided the Procurement Officer~~CPO or SPO~~ retains the authority to finally approve the specifications.

3) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the CPO. If no such specification exists, the Procurement Officer~~CPO or SPO~~ is hereby granted the authority to prepare specifications for use in such purchases. In an emergency under Section 20-30 of the Code (Emergency Procurements), any necessary specification may be utilized by the Procurement Officer~~CPO or SPO~~ without regard to the provisions of this Subpart.

b) Procedures for the Development of Specifications

1) If a specification for a common or general use item has been developed or a qualified products list has been developed in accordance with this Section for a particular supply or service, it shall be used unless the CPO authorizes use of another specification.

2) All procurements shall be based on specifications that accurately reflect the OAG's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.

3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate OAG needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.

4) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.

5) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the OAG's requirements.

c) Brand Name or Equal Specification

1) Brand name or equal specifications may be used when the Procurement Officer~~CPO or SPO~~ determines in writing that:

A) no specification for a common or general use specification or qualified products list is available;

B) time does not permit the preparation of another form of specification, not including a brand name specification;

C) the nature of the product or the nature of the OAG's requirement makes use of a brand name or equal specification suitable for the procurement; or

D) use of a brand name or equal specification is in the State's best interest.

2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.

3) Required Characteristics. Unless the Procurement Officer~~CPO or SPO authorized to approve specifications~~ determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.

4) Nonrestrictive Use of Brand Name or Equal Specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the bidder.

d) Brand Name Only Specification

1) Use. A brand name only specification may be used only when the Procurement Officer~~CPO or SPO~~ makes a written determination that only the identified brand name item or items will satisfy the OAG's needs. Brand name alone may be specified in order to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the Procurement Officer~~CPO or SPO~~.

2) Competition. The Procurement Officer~~CPO or SPO~~ shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 1300.2025 (Sole Source Procurement).

e) Qualified Products List

1) Use. A qualified products list may be developed with the approval of the Procurement Officer~~CPO or SPO~~ authorized to develop qualified products lists, when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy OAG requirements.

2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.

3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.

f) Proven Products
The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may

require that the supply or services must have been used in business or industry for a specified period of time to be considered.

g) OAG Required Samples

1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.

2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the OAG's right to require adherence to specifications.

3) No payment will be made for OAG Required Samples. Samples not destroyed or consumed by examination or testing will be returned upon request at vendor's expense. The ~~Such~~ request must be made at time of submission with return collect or prepayment provisions and instructions for return of the samples.

h) Product Demonstration
Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the OAG's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.

i) Specifications Prepared by Other Than OAG Personnel

1) Specifications may be prepared by other than OAG personnel, including, but not limited to, other State personnel, consultants, architects, engineers, designers, and other drafters of specifications for public contracts. Contracts for the preparation of specifications by other than OAG personnel shall require the specification writer to adhere to the Code and OAG requirements.

2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the Procurement Officer~~CPO or SPO~~ determines in writing that it would be in the best

interest to accept such a bid or proposal from that person and a notice to that effect is provided to the CPO and is published in the Bulletin. The CPO may disapprove that determination.

j) Pre-solicitation Assistance/Specifications Prepared by Other Than OAG Personnel

1) Prior to issuing a solicitation, an SPO may issue an RFP to obtain services of any person or business to conduct research, analyze requirements or provide general design or other assistance to help the OAG develop its procurement strategy, specifications and documents and to identify and address other related needs. No services can be obtained to assist the OAG in reviewing, drafting or preparing an RFP or to provide similar assistance.

2) Notice. An RFP shall be published in the Bulletin for at least 7 calendar days. All information received in response to an RFP shall be published in the Bulletin for at least 7 calendar days.

3) The RFP shall contain at least the following:

A) A statement that the OAG is issuing an RFP;

B) A brief description of the office's need; and

C) A statement that the RFP is not a solicitation.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART I: CONTRACT TYPE

**Section 1300.2055 Types of Contracts**

a) Scope of Rule
This Section contains descriptions of types of contracts and limitations as to when they should be utilized by the OAG in its procurements.

b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting
The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 (Types of Contracts) of the Illinois Procurement Code and by this Part. This type of

contracting may not be used alone or in conjunction with an authorized type of contract.

c) Types of Fixed-Price Contracts

1) Firm Fixed-Price Contract. A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the contractor's cost of performing the work specified in the contract.

2) Fixed-Price Contract with Price Adjustment.

A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in contractor price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:

i) changes in the contractor's labor agreement rates as applied to industry or areawide (such as are frequently found in State contracts for the purchase of coal);

ii) changes due to rapid and substantial price fluctuations, which can be related to an accepted index (such as contracts for gasoline, heating oils, and dental gold alloy); and

iii) in requirement contracts (subsection (g)(3) of this Section) when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).

B) If the contract permits unilateral action by the contractor to bring about the condition under which a price increase may occur, the OAG shall have the right to reject the price increase and terminate

without cost the future performance of the contract.

d) Cost-Reimbursement Contracts

1) Determination Prior to Use~~.~~

A) A cost-reimbursement type contract may be used only when the Procurement Officer~~CPO or SPO~~ determines in writing that such a contract is likely to be less costly to the OAG than any other type or that it is impracticable to obtain otherwise the supplies, services, or construction.

B) Reimbursement of travel expenses in accordance with applicable travel control board regulations is authorized without further determinations.

2) Cost Contract. A cost contract provides that the contractor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.

3) Cost-Plus-Fixed-Fee Contract. This is a cost-reimbursement type contract that provides for payment to the contractor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract. The cost-plus-fixed-fee contract can be either a Completion Form or Term Form.

4) Cost Incentive Contracts~~.~~

A) General. A cost-incentive type of contract provides for the reimbursement to the contractor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the contractor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of

performance and consequently is dependent on how effectively the contractor controls cost in the performance of the contract).

B) Fixed-Price Cost-Incentive Contract. In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The contractor is obligated to complete performance of the contract, and, if actual costs exceed the ceiling price, the contractor will suffer the loss.

C) Cost-Reimbursement Contract with Cost-Incentive Fee. In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the OAG is obligated to reimburse the contractor. The contractor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the contractor.

e) Performance Incentive Contracts
In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the contractor to a bonus, while late completion may entitle the OAG to a price decrease.

f) Time and Materials Contracts; Labor Hour Contracts
Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. Such contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior OAG approval.

g) Definite Quantity and Indefinite Quantity Contracts

1) Definite Quantity. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.

2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the OAG is obligated to order and may also provide for a maximum quantity provision that limits the OAG's obligation to order.

3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the OAG to order all the actual requirements of the OAG during a specified period of time.

h) Leases
A lease is a contract for the use of supplies or real property under which title will not pass to the State at any time.

i) Recovery Contracts
Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.

j) Option Provisions

1) Contract Provision. When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other

procurement action when the option is established for exercise at the OAG's option.

2) Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposals, the leased supply or facility is the only supply or facility that can meet the OAG's requirements, or if the purchase option price is less than the small purchase limit or if emergency conditions exist.

k) State Produced Supplies and Services
Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.

l) Extraordinary Quantities
Notwithstanding any provision in any contract, the OAG reserves the right to take bids separately if a particular quantity requirement arises that exceeds the OAG's normal needs or ordering requirements.

m) Energy Conservation
The CPO may authorize an IFB~~Invitation for Bids~~, RFP~~Request for Proposals~~ or sole source negotiation for energy conservation measures whereby the OAG would make payment based on utility cost savings. The ~~Such~~ contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in facility, usage and cost of energy.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART J: DURATION OF CONTRACTS

**Section 1300.2060 Duration of Contracts − General**

a) General

1) A multi-year~~term~~ contract for a term up to 10 years is authorized when determined by the CPO to be~~it is~~ in the best interest of the OAG and the State, inclusive of proposed contract renewals.

2) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.

3) A lease for real property or capital improvements shall be in accordance with Sections 1300.4005 through 1300.4045.

b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds ~~therefor~~. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of the ~~such~~ contract shall be cancelled without penalty to, or further payment being required by, the OAG. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

c) Conditions for Use of Multi-Year~~Term~~ Contracts
A multi-year~~term~~ contract may be used when:

1) special production of definite quantities or the furnishing of long-term services are required to meet OAG needs; or

2) a multi-year~~term~~ contract will serve the best interests of the OAG and the State by encouraging effective competition or otherwise promoting economies in OAG procurement. The following factors are among those relevant to such a determination:

A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping those~~such~~ costs during the period of contract performance;

B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;

C) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or

D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

d) Multi-Year~~Term~~ Contract Procedure
The solicitation shall state:

1) the proposed term;

2) the amount of supplies or services required for the proposed contract period;

3) whether bidders or offerors may submit prices for:

A) the first fiscal period only;

B) the entire time of performance only; or

C) both the first fiscal period and the entire time of performance; and

4) that a multi-year~~term~~ contract may be awarded and how award will be determined.

e) Renewals

1) When ~~Where~~ the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option is reserved solely to the OAG.

2) When ~~Where~~ the original procurement was silent as to renewals, the renewal must be within the guidelines for small, sole source or emergency procurements as set forth in the Code and this Part.

3) When proposals for renewal or extension involve costs of $250,000 or more, the proposals must be reviewed by the OAG PPCMB. If the OAG PPCMB raises no objection, the CPO may enter into the renewal or extension. By August 1 each year, the OAG PPCMB shall file a report with the General Assembly identifying for the previous fiscal year:

A) the proposed extensions or renewals that were filed with the OAG PPCMB and whether the OAG PPCMB objected; and

B) the contracts exempt from this subsection (e)(3).

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART K: CONTRACT MATTERS

**Section 1300.2580 Subcontractors**

All competitive sealed proposals, including proposals for professional and artistic services, shall include a provision to require each offeror to identify, either in its proposal or prior to award, the identity of the subcontractors that will be used in the performance of the contract, as well as the amounts expected to be paid to each subcontractor.

(Source: Added at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

**Section 1300.4005 Real Property Leases and Capital Improvement Leases**

Except as otherwise authorized or required by law, real~~Real~~ property leases and capital improvement leases shall be procured in accordance with Article 40 of the Code and~~,~~ this Part ~~and 44 Ill. Adm. Code 5000. In the event of a conflict, 44 Ill. Adm. Code 5000 shall prevail~~.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.4015 Method of Source Selection**

a) Leases shall be procured by using a Request for Information process, except as provided in subsection (b).

b) The RFI process is not required in the following circumstances.

1) *Property of less than 10,000 square feet with rent of less than $100,000 per year.*

2) *Duration of less than one year that cannot be renewed.*

3) *Specialized space available at only one location.*

4) *Renewal or extension of leases provided that:*

A) *The CPO determines in writing that the renewal or extension is in the best interest of the OAG and the State;*

B) *The CPO submits the written determination and the renewal or extension to the OAG PPCMB;*

C) *The OAG PPCMB does not object in writing to the renewal or extension within 30 days after its submission;*

D) *The CPO publishes notice of the renewal or extension in the Bulletin;* and

E) The length of the lease, including renewals, does not exceed 10 years.

5) *Leases with other governmental units may be negotiated without using the RFI process when deemed by the CPO to be in the best interest of the OAG and the State*. [30 ILCS 500/40-15]

c) Leases acquired under these exceptions shall be selected and entered into by negotiation. Written summaries of all negotiations shall be maintained in lease files.

(Source: Added at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.4020 Request for Information and Review of Proposed Leases**

a) An RFI will contain at a minimum the following information:

1) A description of the general *type of property to be leased*;

2) *The proposed use of the property;*

3) The proposed term of the lease;

4) The *preferred location of the property* [30 ILCS 500/40-20(b)];

5) General information such as size of space, configuration desired and any other appropriate requirements;

6) The address to which responses to the RFI may be sent; and

7) The date on which responses are due.

b) Notice of the RFI shall be:

1) Published at least 14 days prior to the deadline for responding in both the Illinois Procurement Bulletin and a newspaper having general circulation in the area in which the space is being sought; and

2) Of an appropriate size to draw attention and shall be placed in the legal advertisement section.

c) The RFI response shall consist of *written confirmation sufficient to show that the respondent can meet the minimum criteria set forth in the* RFI. [30 ILCS 500/40-20(d)]

d) All responses to the RFI will be publicly opened on the announced opening date. Names of all parties submitting proposals will be made available to the public.

e) The SPO may conduct discussions with respondents of the RFI *for the purpose of clarifying the needs of the OAG and the information supplied by the respondents.* [30 ILCS 500/40-20(d)]

f) On the basis of the responses to the RFI, the SPO *shall make a written determination of which RFI responses meet the minimum criteria set forth in the* RFI. [30 ILCS 500/40-20(d)]

g) The SPO will enter into negotiations *with all qualified respondents for the purpose of securing a lease that is in the best interest of the State*. [30 ILCS 500/40-20(d)] A written record of all negotiations will be maintained by the Attorney General.

h) The SPO shall review all relevant information and shall recommend to the CPO which proposal should be accepted. *The lease shall be reduced to writing.* [30 ILCS 500/40-20(d)]

i) The OAG PPCMB *shall review any proposed lease of real property of more than 10,000 square feet or any proposed lease of real property with annual rent payments of $100,000 or more. The* OAG PPCMB *shall have 10 days to review a proposed lease*. No contract may be entered into until the 10-day period has expired, unless the CPO requests in writing that the OAG PPCMB waive the period and the OAG PPCMB grants the waiver in writing. *If the* OAG PPCMB *does not object in writing within 10 days, then the proposed lease shall become effective according to its terms as submitted.* [30 ILCS 500/40-20(e)]

j) The CPO will make the final award, which will be announced in the Illinois Procurement Bulletin. The lease shall be executed by all parties. *One copy of the lease will be filed with the Comptroller*. [30 ILCS 500/40-20(d)]

k) *Should the lowest response by price not be selected*, a written report of the negotiation shall be retained in the lease files and shall include the reasons for the final selection. *The CPO shall publish notice, along with the reasons for such selection, in the next available volume of the Illinois Procurement Bulletin.* [30 ILCS 500/40-20(d)]

l) The CPO reserves the right to reject any and all proposals and to request and evaluate "best and final" proposals. All decisions on compliance, evaluations, terms and conditions shall be made solely at the CPO's discretion and made to favor the State.

(Source: Added at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.4025 Lease Requirements**

a) Length of Leases

1) Maximum Term. Except when a longer term is authorized by law, leases shall be for a term not to exceed 10 years inclusive of proposed contract renewals and shall include a termination option in favor of the OAG after 5 years. [30 ILCS 500/40-25(a)]

2) Renewal Option. Leases may include a renewal option. An option to renew may be exercised only when the CPO determines in writing that renewal is in the best interest of the State and notice of the exercise of the option is published in the next available issue of the Illinois Procurement Bulletin. [30 ILCS 500/40-25(b)]

3) Holdover. No lease may continue on a month-to-month or other holdover basis for a total of more than 6 months. [30 ILCS 500/40-25(d)]

b) *Subject to Appropriation*
*All leases shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.* [30 ILCS 500/40-25(c)]

c) Lessor's Failure to Make Improvements
*Each lease must provide for a penalty upon the lessor's failure to make improvements agreed upon in the lease. The penalty shall consist of a reduction in lease payments equal to the corresponding percentage of the improvement value to the lease value. The penalty shall continue until the lessor complies with the lease and the improvements are accepted by the OAG.* [30 ILCS 500/40-55]

(Source: Added at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.4045 Emergency Lease Procurements**

Emergency lease procurements may be made pursuant to 44 Ill. Adm. Code 1300.2030 of this Part.

(Source: Added at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART O: PREFERENCES

**Section 1300.4510 Resident Bidder Preference**

a) "Illinois resident vendor" as used in this Section means a person, including a foreign corporation, duly authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced~~, including a foreign corporation duly authorized to transact business in this State that has a bona fide~~

~~establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced~~.

b) In breaking a tie, an Illinois resident vendor shall be given the award.

c) An Illinois resident vendor who would perform the services or provide the supplies from another state shall be considered a resident of that other state as against an Illinois resident vendor who would perform the services or provide the supplies from Illinois, if that other state has an in-state preference.

d) If an Illinois resident vendor produces or performs at least 51% of the goods or services in another state, that Illinois resident vendor shall be considered a resident of that other state for purposes of application of this reciprocal preference when evaluating the bid of an Illinois resident contractor that produces or performs at least 51% of the goods or services in Illinois.

e) The Procurement Officer~~CPO or SPO~~ may refer to the list of states with in-state preference maintained by DCMS, which shall be considered in all procurements involving out-of-state vendors.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.4530 Correctional Industries**

a) To the extent economically practicable, the Procurement Officer~~The CPO or SPO~~ shall refer to, and make purchases from, the listing maintained by DCMS of ~~the~~ goods or services available from Illinois Correctional Industries (ICI)~~the Department of Corrections that identifies those that must be purchased from Corrections~~.

b) When the Procurement Officer determines that it is not economically practicable to make a purchase of goods or services from ICI, the Procurement Officer shall provide a written explanation for the determination to the OAG PPCMB no less than 7 days prior to executing a contract to obtain goods or services from a source other than ICI.

~~b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the CPO.~~

c) The Procurement Officer~~CPO or SPO~~ is authorized to procure from ICI~~Corrections~~ without seeking competition or giving public notice.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.4535 Sheltered Workshops for the Disabled**

a) The Procurement Officer~~CPO or SPO~~ shall refer to information prepared by DCMS regarding qualified sheltered workshops and categories of goods and services set-aside to such sheltered workshops by DCMS. To the extent practicable, the OAG will follow such set-asides.

b) Pricing Approval
While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar goods or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.4545 Small Business**

a) Set-Aside
The CPO for DCMS may determine categories of goods or service procurements that will be set-aside for small business. The Procurement Officer~~CPO or SPO~~ may contact DCMS to determine whether a particular procurement has been set-aside for small business, and if so, the OAG may honor the set-aside to the extent practicable.

b) Small Business List
The OAG may avail itself of the list of responsible vendors that meet the criteria of small business maintained by DCMS. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.

c) Required Use
If the Procurement Officer~~CPO or SPO~~ wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large

businesses will be rejected as nonresponsive.

d) Withdrawal of Set-Aside
If the Procurement Officer~~CPO or SPO~~ determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer~~CPO or SPO~~ shall 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 shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.

e) Criteria for Small Business
Unless the CPO 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. This 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 shall 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~~$7,500,000~~ for wholesale business;

B) $10,000,000~~$3,000,000~~ for construction business; or

C) $6,000,000~~$1,500,000~~ 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, then the annual sales for each component may not exceed the amounts shown in subsection (e)(3). For example, a business that is both a retailer and a 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).~~If both a wholesaler and a retailer, the combined wholesale and retail annual sales for its most recently completed fiscal year may not exceed $9,000,000. The retail component may not exceed $1,500,000 and the wholesale component may not exceed $7,500,000.~~

6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. 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 control or have the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART P: ETHICS

**Section 1300.5030 Revolving Door**

a) Procurement Officers, Procurement Officer designees and OAG PPCMB members are subject to the revolving door provisions of the Code [30 ILCS

500/50-30].

b~~a~~) Each Procurement Officer~~The CPO or SPOs~~ shall identify designees in writing and shall maintain the designation for a period of at least two years following the end or revocation of the designation.

c~~b~~) Procurement Officer~~Those~~ designees whose job or position descriptions are at least 51% directly related to State procurement are subject to this Section. The following activities are directly related to State procurement: drafting specifications, preparing IFBs and RFPs, evaluating responses to IFBs and RFPs, negotiating contracts and supervising any of the foregoing.

d) OAG employees and former employees are also subject to Section 5-45 of the State Officials and Employees Ethics Act [5 ILCS 430/5-45].

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.5037 Vendor Registration, Certification and Prohibition on Political Contributions**

a) Introduction
Illinois law [10 ILCS 5/9-35 and 30 ILCS 500/20-160 and 50-37] (the statutes) restricts political contributions by vendors and affiliated entities; requires registration with the State Board of Elections (SBEL); requires a copy of the registration certificate stamped by SBEL (Registration Certificate) to be submitted with bids/proposals and contracts; and requires solicitation and contract certifications relative to the requirements of the law. This Section supplements requirements found in the statutes and does not excuse compliance with any of those requirements.

b) General Registration Requirements

1) These requirements apply to contracts, bids and proposals that are subject to the Code and this Part;

A) Bids/proposals referenced in this Section are those submitted in response to a competitive solicitation that is posted to the Bulletin on or after January 1, 2009, regardless of the value assigned to the procurement.

B) Bids and proposals include pending bids and proposals.

C) These requirements generally apply to a vendor whose existing State contracts have an aggregate value in excess of $50,000, whose aggregate value of bids/proposals for State contracts exceeds $50,000, or whose aggregate value of State contracts and bids/proposals exceeds $50,000.

D) This value is calculated on a calendar-year basis.

2) On a calendar-year basis, each vendor or potential vendor must keep track of the value of contracts and bids/proposals. Vendors must register with SBEL when the vendor determines that the value of the contracts and bids/proposals meets the threshold for registration.

3) An "executive employee" means:

A) the President, Chairman of the Board, or Chief Executive Officer of a business entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity.

B) any employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee, irrespective of the employee's title or status in the business entity. For the purposes of this subsection (b)(3)(B), compensation determined directly by award or payment of contracts means a payment over and above regular salary that would not be made if it were not for the award of the contract.

c) Bids and Proposals

1) A copy of the Registration Certificate must be submitted with bids/proposals.

2) If the Registration Certificate is not timely submitted, the OAG will reject the bid/proposal unless the absence of the Certificate is the result of delay or error by the OAG. In all circumstances, the Certificate will be required before making an award.

d) Contracts
A copy of the Registration Certificate must be in the procurement file as set forth in this subsection (d), unless the vendor certifies it is not required to register.

1) For contract renewals and extensions, if the value of the renewal or extension by itself, or in combination with the contract being renewed/extended and other contracts and bids/proposals exceeds $50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so.

2) For indefinite quantity/estimated value contracts, a vendor who is otherwise not required to register shall register with SBEL when the value of orders placed pursuant to an indefinite/estimated value contract plus all other contracts and bids/proposals exceeds $50,000.

3) For contract amendments, if the value of the amendment, by itself or in combination with the contract being renewed plus other contracts and bids/proposals, exceeds $50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so.

4) Any contracts mistakenly executed in violation of this Section must be amended to include the contract certifications, and the vendor must supply the Registration Certificate. If any violation by the vendor is not cured within 5 business days after receipt of notification of the violation, the contract is voidable by the State without penalty.

5) Contract certification required by the statutes shall be included in or added to each contract that must be filed with the State Comptroller pursuant to Section 20-80 of the Code and those written, two-party contracts that need not be filed with the Comptroller. The OAG may require written confirmation of the rule-imposed certification at any time.

(Source: Added at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.5039 Communications Related to Procurement**

a) Any OAG employee who receives a written or oral communication that imparts or requests material information or makes a material argument regarding potential

action concerning a procurement matter, including but not limited to an application, a contract or a project, shall [30 ILCS 500/50-39] report the communication to the OAG PPCMB. The OAG PPCMB shall make each report submitted pursuant to this Section available for review within 7 days after its receipt of the report.

b) A communication must be reported if it is material, regarding potential action, relating to a procurement matter and not otherwise excluded from reporting.

1) Materiality

A) "Material information" is information that a reasonable person would deem important in determining his or her course of action. It is information pertaining to significant issues, including, but not limited to, price, quantity and terms of payment or performance.

B) A "material argument" is a communication that a reasonable person would believe was made for the purpose of influencing a decision relating to a procurement matter. It does not include general information about products, services or industry best practices, or response to a communication initiated by an OAG employee for the purpose of providing information to evaluate new products, trends, services or technologies.

C) In determining whether a communication is material, the OAG employee must consider:

i) whether the information conveyed is new or already known to the OAG (or repeated or restated privately) and other participants in the communication; and

ii) the likelihood that the information would influence a pending procurement matter.

2) A "potential action" is one that a reasonable person would believe could affect the initiation, development or outcome of a procurement matter.

3) "Procurement matters", unless otherwise excluded, are the processes of procuring specific goods, supplies, services, professional or artistic services, construction, leases of real property in which the OAG is the

lessor or lessee, or capital improvements, and include master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders. Procurement matters are activities that occur during the time period beginning with the time the OAG has identified a need for procurement as determined and documented by the CPO or SPO, and continuing through the publication of an award notice or other completion of a final procurement action, the resolution of any protests, and the expiration of any protest or OAG PPCMB review period, if applicable. Procurement matters include:

A) drafting, reviewing or preparing specifications, plans or requirements, including determining the method of source selection;

B) drafting, reviewing or preparing any IFB, RFI, RFP, sole source procurement justifications, emergency procurement justifications or selection information;

C) evaluating bids, responses and offers, other communications among members of an evaluation team and any technical advisors to the team relating to the evaluation of a procurement not yet awarded;

D) letting or awarding a contract;

E) resolving protests;

F) determining inclusion on prequalification lists or prequalification in general;

G) identifying potential conflicts of interest or voiding or allowing a contract, bid, offer or subcontract for a conflict of interest;

H) allowing a contract or subcontract voidable under Section 50-60 of the Code; and

I) approving change orders or the renewal or extension of an existing contract.

c) This Section does not apply to the following communications:

1) Communication *made publicly in a public forum*;

2) Communications *regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter*;

3) Communications *regarding the administration and implementation of an existing contract*;

4) Communication *between an OAG employee and*:

A) *the Attorney General*;

B) *other employees of the OAG*;

C) the OAG PPCMB;

D) the Office of the Executive Inspector General for the Attorney General;

E) *employees of the Executive Ethics Commission* [30 ILCS 500/50-39(a)]; or

F) an employee of a State agency who, through the communication, is either:

i) exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the SPO; or

ii) exercising oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities;

5) Unsolicited communications providing general information about products, services or industry best practices, prior to those products or services becoming involved in a procurement matter;

6) Communications received in response to procurement solicitations pursuant to the Code, including, but not limited to, vendor responses to an RFI, RFP, Request for Qualifications or IFB or a small purchase, sole source or emergency solicitation, questions and answers posted to the Bulletin to supplement the procurement action. This exemption is not applicable unless the communications are made in accordance with the instructions contained in the procurement solicitation, procedures or guidelines;

7) Communications that are privileged, protected or confidential under law;

8) Communications that are part of the formal procurement process as set out by statute, rule or the solicitation, guidance or procedures, such as the posting of procurement opportunities, the process for approving a Procurement Business Case or its equivalent, fiscal approval, submission of bids, the finalizing of contract terms and conditions with an awardee or apparent awardee, and similar formal procurement process.

d) Notwithstanding any exemption provided in subsection (c), an OAG employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning a procurement matter if that communication attempts to influence through duress, coercion, or the direct or indirect offer or promise of anything of value to any person or entity in consideration for any benefit or preference in the procurement process.

e) Notwithstanding any exemption provided in subsection (c), an OAG employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning a procurement matter if the employee reasonably believes the communication was made for any improper purpose, including, but not limited to, providing an improper benefit, monetary or non-monetary, to any person or entity.

f) As soon as practicable, but in no event more than 30 days after receipt of the communication or the first of a series of related communications described in subsection (b), the OAG employee shall report the communication to the OAG PPCMB.

g) For purposes of this Section, "OAG employee" means:

1) any person employed full-time, part-time, or pursuant to a personal services contract with the OAG and whose employment duties are subject to the direction and control of the OAG with regard to the material details of how the work is to be performed;

2) any appointed board member of a board of the OAG; or

3) any other person appointed to a position in or with the OAG, regardless of whether the position is compensated.

h) For purposes of this Section, "public forum" includes any meeting that satisfies the notice requirements contained in Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02], but also other public events that are advertised and generally open to the public. A meeting may be a public forum even if a reasonable fee is required. Examples include educational seminars and conferences.

(Source: Added at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

**Section 1300.5510 Complaints Against Vendors or Subcontractors**

a) Whenever a vendor or subcontractor fails to deliver on time or meet specifications, or for other similar causes, the OAG shall initiate a complaint to the vendor or subcontractor.

b) For relatively minor infractions, the OAG may initiate contact by telephone or in person. If not resolved by this action, a written complaint will be made.

c) If the initial complaint is not satisfactorily answered, or for serious infractions, the OAG will send a written complaint to the vendor or subcontractor detailing the problem.

d) A copy of all written complaints shall be filed with the CPO. Information regarding the resolution of the complaint shall also be filed.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.5520 Suspension**

a) Application
This Section applies to all debarments or suspensions of vendors or subcontractors from consideration for award of contracts.

b) The CPO may suspend a vendor or subcontractor from doing business with the OAG, or for specific types of supplies or services. A suspension may be issued upon a showing the vendor or subcontractor violated the Code or this Part, or failed to conform to specifications or terms of delivery.

c) When the CPO finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor or subcontractor. Bids or proposals will not be solicited from the suspended vendor or subcontractor, and~~,~~ if they are received they will not be considered during the period of suspension.

d) A vendor or subcontractor~~contractor~~ may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective within seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.

e) The CPO may debar a vendor or subcontractor. Debarment is the permanent suspension of a vendor or subcontractor from doing business with the OAG. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals will not be solicited from the debarred vendor or subcontractor, and~~,~~ if they are received they will not be considered.

f) The CPO~~OAG~~ shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. The~~Such~~ records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.5530 Settlement and Resolution of Contract and Breach of Contract Controversies**

a) Authority to Settle or Resolve Controversies

The Procurement Officer~~CPO or SPO~~ who established the contract shall have authority to settle and resolve controversies but the Attorney General may set limits on such authority given to the SPO.

b) Authority of Using Agency
The OAG has the authority to accept delivery of goods or services in accordance with contract requirements as satisfactory adjustment of a complaint.

c) Substitution of Terms/Price Reduction
If the vendor proposes to make an adjustment by:

1) substituting an alternative specification, or

2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract,
such proposal must be referred to and approved by the Procurement Officer~~CPO or SPO~~.

d) Cancellation for Breach of Contract
In any of the following cases the Procurement Officer~~CPO or SPO~~ shall have the right to terminate or rescind any contract entered into under this Part:

1) The successful bidder fails to furnish a satisfactory performance bond within the time specified;

2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the OAG;

3) Any goods or services provided under the contract are rejected (for example not meeting specifications, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's goods or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the goods or services promptly;

4) The vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of goods or services to the OAG such that he cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts with the OAG;

5) The vendor:

A) is adjudged bankrupt or enters into a general assignment for the benefit of his creditors or receivership due to insolvency; or

B) disregards laws and ordinances, rules or instructions of a contracting officer; or

C) acts in violation of any provision of the contract or this Part;

6) The contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States; or

7) Any other breach of contract or other unlawful act by the vendor.

e) Cancellation for Fraud, Collusion, Illegality, Etc.
The OAG may cancel any contract it established if there is sufficient evidence to show that:

1) the contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or

2) the contract conflicts with any statutory provision of the State of Illinois or of the United States.

f) Withholding Money to Compensate State for Damages
If a contract is terminated or rescinded under this Section, the OAG may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on his part on which the cancellation is based.

g) Damages
The damages for which the OAG may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

1) the additional cost of goods or services bought elsewhere;

2) cost of repeating the procurement procedure;

3) any expenses incurred because of delay in receipt of goods or services; and

4) any other damages caused by the vendor's breach of contract or unlawful act.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.5550 Protests**

a) Protest Resolution by Procurement Officer~~CPO or SPO~~
An actual or prospective bidder, offeror, or contractor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.

b) Complaints
Complainants should seek resolution of their complaints initially with the OAG. Complaints~~Such complaints~~ may be made verbally or in writing.

c) Filing of Protest

1) Protests shall be made in writing to the Procurement Officer~~CPO or SPO~~, if applicable, and shall be filed within 7~~14~~ days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the Procurement Officer~~CPO or SPO~~. Protests filed after the 7~~14~~ day period shall not be considered. In regard to a protest regarding specifications, the protest must be received within 7~~14~~ days after the date the solicitation was issued, and in any event must be received by the OAG at the designated address before the date for opening of bids or proposals.

2) To expedite handling of protests, the envelope should be labeled "Protest." The written protest shall include as a minimum the following:

A) the name and address of the protester;

B) appropriate identification of the procurement, and, if a contract has

been awarded, its number;

C) a statement of reasons for the protest; and

D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.

d) Requested Information; Time for Filing
Any additional information requested by the OAG shall be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the CPO or the SPO may result in resolution of the protest without consideration of that information.

e) Stay of Procurements During Protest
When a protest has been timely filed and before an award has been made, the Procurement Officer~~CPO or SPO~~ shall make no award of the contract until the protest has been resolved, unless the CPO makes a written determination, after consulting with the SPO, that the award of the contract without delay is necessary to protect the interests of the State.

f) Decision by the Procurement Officer~~CPO or SPO~~
Time for Decisions. A decision on a protest shall be made by the Procurement Officer~~CPO or SPO~~ as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.

g) Effect of Judicial or Administrative Proceedings
If an action concerning the protest has commenced in court, the Procurement Officer~~CPO or SPO~~ shall not act on the protest but shall refer the protest to the Chief of the General Law Bureau in the Office of the Attorney General.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.5555 Hearings and Decisions**

a) The CPO shall conduct public hearings prior to awarding contracts for sole source procurements pursuant to Section 1300.2025 and before extending emergency procurements pursuant to Section 1300.2030.

b) Notices of hearings shall be published in the Bulletin at least 14 days prior to the date of the public hearing.

1) All notices shall include the date, time and location of the public hearing.

2) Notices for sole source procurements shall include the sole source procurement justification form, a description of the item to be procured, and the intended sole source contractor.

3) Notices for extending emergency procurements shall include the CPO's written justification for the emergency contract and the name of the contractor.

c) A copy of the notice and all documents provided at the hearing shall be included in the subsequent Bulletin.

d) The OAG PPCMB and members of the public may present testimony at the hearings.

e) The hearings shall be held in the offices of the Attorney General or at some other convenient location readily accessible to members of the public.

f) The CPO or his or her designee shall preside over the hearings and shall issue a written determination within 14 calendar days after the conclusion of the hearing.

g) Copies of all statements and exhibits introduced at the hearings, the written determination of the CPO or designee, and a summary of the proceedings at the hearings shall be included in the appropriate procurement files.

(Source: Added at 36 Ill. Reg. 11974, effective July 13, 2012)

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

**Section 1300.7015 Inspections**

a) Inspection of Plant or Site

The OAG may enter a contractor's or subcontractor's plant or place of business to:

1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;

2) audit the books and records of any contractor or subcontractor pursuant to record and audit provisions of this Part;

3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Illinois Procurement Code;

4) determine whether the standards of responsibility have been met or are capable of being met; and

5) determine if the contract is being performed in accordance with its terms.

b) Inspection and Testing of Supplies and Services

1) Solicitation and Contractual Provisions. A contract may provide that the OAG or its agent may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether the supplies or services conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.

2) Procedures for Trial Use and Testing. The CPO may establish operational procedures governing the testing and trial use of equipment, material, and other supplies, and the application of resulting information and data to specifications or procurements.

c) Conduct of Inspections

1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the contractor or subcontractor. No inspector other than the Procurement Officer~~CPO or SPO~~ may change any provision of the specifications or the contract without written authorization of the Procurement Officer~~CPO or SPO~~. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.

2) Location. When an inspection is made in the plant or place of business of a contractor or subcontractor, the ~~such~~ contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor shall be performed at reasonable times.

d) Inspection of Construction Projects
On-site inspection of construction shall be performed in accordance with the terms of the contract.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

**Section 1300.7020 Records and Audits**

a) Retention of Books and Records
Books and records that relate to performance of an OAG contract, including subcontracts, and that support amounts charged to the OAG shall be maintained:

1) by a contractor, for three years from the date of final payment under the prime contract;

2) by a subcontractor, for three years from the date of final payment under the subcontract; and

3) by a contractor and subcontractor for such larger period of time as is necessary to complete any ongoing or announced audits.

b) Contract Audit
Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and materials contract. Situations where an audit may be warranted include but are not limited to when a question arises in connection with:

1) the financial condition, integrity, and reliability of the contractor or

subcontractor;

2) any prior audit experience;

3) the adequacy of the contractor's or subcontractor's accounting system;

4) the number or nature of invoices or reimbursement vouchers submitted by the contractor or subcontractor for payment;

5) the use of federal assistance funds;

6) the fluctuation of market prices affecting the contract; or

7) any other situation in which ~~when~~ the Procurement Officer~~CPO or SPO~~ finds that such an audit is necessary for the protection of the State's best interest.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Water Supply Operator Certification

2) Code Citation: 35 Ill. Adm. Code 680

3)

| Section Numbers: | Adopted Action: |
|---|---|
| 680.101 | Amended |
| 680.1000 | New |
| 680.1005 | New |
| 680.1010 | New |
| 680.1015 | New |
| 680.1020 | New |
| 680.1025 | New |
| 680.1030 | New |
| 680.1035 | New |
| 680.1040 | New |

4) Statutory Authority: Implementing and authorized by the Public Water Supply Operations Act [415 ILCS 45]

5) Effective Date of Amendments: August 1, 2012

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rulemaking is on file in the Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276 Springfield, Illinois 62794-9276 and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: 36 Ill. Reg. 4001; March 16, 2012

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

11) Differences between proposal and final version: The final version changes the table of contents so that the title of Subpart J is in all capital letters.

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.

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

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

15) Summary and Purpose of Amendments: This rulemaking adds Subpart J, which sets forth procedures for approving a contract between a community water supply and a properly qualified certified operator. Under the Public Water Supply Operations Act, community water supplies are required to have a certified operator on its staff, and all portions of the community water supply must be under the direct supervision of a properly certified community water supply operator. These requirements may be met by contracting the services of a certified operator. All contracts must be approved by the Illinois EPA. Section 680.1010 sets forth the necessary contract provisions to obtain Illinois EPA approval. Section 680.1025 provides that the Illinois EPA will approve the contract if the contract operator is properly certified, all the requirements of Subpart J are met, and the contract provisions assure proper operation of the community water supply. All contract modifications or extensions are required to be submitted to the Illinois EPA for approval as new contracts.

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

Joanne Olson
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19726
Springfield, Illinois 62794-9276

217/782-55-44

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 680
WATER SUPPLY OPERATOR CERTIFICATION

SUBPART A: INTRODUCTION AND DEFINITIONS

Section
680.101 Purpose
680.102 Advisory Board
680.103 Examination
680.104 Hands-on or Necessary Skills, Knowledge, Ability, and Judgment
680.105 Law
680.106 Responsible Charge
680.107 Equivalent to a High School Education
680.108 Continuing Education Unit
680.109 Quarter Hours and Semester Hours
680.110 Grandparenting
680.111 Other Definitions

SUBPART B: EXAMINATION FREQUENCY AND LOCATION

Section
680.201 Examination Frequency
680.202 Examination Location
680.203 Examination on Request

SUBPART C: EXAMINATION ELIGIBILITY

Section
680.301 Eligibility
680.302 Applications
680.303 Eligibility Determination
680.304 Review of Determination
680.305 Examination Admission
680.306 Letters of Admission

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: WRITTEN EXAMINATION

Section
680.401 Examination Classification
680.402 Standards for Examination and Grading
680.403 Award of Certificate of Competency

SUBPART E: REEXAMINATION

Section
680.501 Reexamination at Same Classification
680.502 Alternate Classification (Repealed)
680.503 Reexamination Fee

SUBPART F: RECIPROCITY

Section
680.601 Application for Reciprocal Certification
680.602 Authority to Obtain Information
680.603 Personal Interview (Repealed)
680.604 Reciprocity Determination
680.605 Change in Classification

SUBPART G: SANCTIONS

Section
680.701 Causes
680.702 Procedures
680.703 Hearing and Decision
680.704 Sanctions
680.705 Appeal

SUBPART H: CERTIFICATE RENEWAL, RESTORATION, AND REQUIRED TRAINING

Section
680.801 Certificate Expiration
680.802 Certificate Renewal
680.803 Renewal Application Filing Deadlines
680.804 Renewal Training Requirements

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

680.805 Restoration of Expired Certificates
680.806 Training Criteria
680.807 Proof of Training Records, Record Keeping, Audits
680.808 Training Exclusions
680.809 Meetings and Conferences of Professional Operator Organizations
680.810 Submission of Training Hours
680.811 Waiver of Required Training
680.812 Issuance of Renewed and Restored Certificates
680.813 Contested Renewal, Restoration, and Training Determinations

SUBPART I: GRANDPARENTING

Section
680.901 Grandparenting

SUBPART J: CONTRACTUAL OPERATION

Section
680.1000 Contract Operator
680.1005 Certified Operator Requirement
680.1010 Required Contract Provisions
680.1015 Documentation of Contract Provisions
680.1020 Request for Contract Approval
680.1025 Agency Review of the Contract
680.1030 Withdrawal of Approval of the Contract
680.1035 Contract Modifications and Extensions
680.1040 Termination of Contract

AUTHORITY: Implementing and authorized by the Public Water Supply Operations Act [415 ILCS 45].

SOURCE: Filed April 1, 1974; Part repealed, new Part adopted at 6 Ill. Reg. 10942, effective September 1, 1982; amended at 12 Ill. Reg. 8442, May 2, 1988; amended at 24 Ill. Reg. 7263, effective April 24, 2000; amended at 36 Ill. Reg. 12080, effective August 1, 2012.

SUBPART A: INTRODUCTION AND DEFINITIONS

**Section 680.101 Purpose**

The purpose of this Partpart is to set forward procedures for the following:

a) testing for and granting of water supply operator certification; and

b) revoking water supply operatorfor revocation of that certification; and

c) approving a contract between a community water supply and a contract operator.

(Source: Amended at 36 Ill. Reg. 12080, effective August 1, 2012)

SUBPART J: CONTRACTUAL OPERATION

**Section 680.1000 Contract Operator**

For the purposes of this Subpart J, "contract operator" means a natural person certified as competent as a water supply operator under the Law who operates or supervises the operation of a community water supply by contractual agreement with the owner.

(Source: Added at 36 Ill. Reg. 12080, effective August 1, 2012)

**Section 680.1005 Certified Operator Requirement**

a) *Every community water supply shall* employ *on its operational staff at least one natural person certified as competent as a water supply operator under the provisions of the* Law. [415 ILCS 45/1]

b) *Except for exempt community water supplies as specified in Section 9.1 of* the Law, *all portions of a community water supply system shall be under the direct supervision of a properly certified community water supply operator.* [415 ILCS 45/1]

c) *A community water supply may satisfy the requirements of this Section by contracting the services of a properly qualified certified operator as specified in* Section *1(2)* of the Law. [415 ILCS 45/1(3)] The contract between the community water supply and the contract operator must be approved by the Agency and meet the requirements of this Subpart and the Law.

d) Certified operators must be of the required class or higher, as specified in Section 1(2) of the Law.

(Source: Added at 36 Ill. Reg. 12080, effective August 1, 2012)

**Section 680.1010 Required Contract Provisions**

The contract between the community water supply and the contract operator must delegate responsibility and authority to the contract operator. The contract must include the following:

a) The parties involved, including names, addresses and phone numbers of each;

b) The specific starting and expiration dates of the contract;

c) The minimum number of visits the contract operator must make each week to the community water supply;

d) The duties and responsibilities of each party involved, including, at a minimum, the party responsible for:

1) proper operation of the community water supply;

2) compliance with all construction and operating permit requirements;

3) compliance with all NPDES permit effluent requirements;

4) compliance with Subtitle F of this Title, including but not limited to the following:

A) Design, Operation and Maintenance Criteria, 35 Ill. Adm. Code 653;

B) Raw and Finished Water Quality and Quantity, 35 Ill. Adm. Code 654;

C) Primary Drinking Water Standards, 35 Ill. Adm. Code 611;

D) Permits, 35 Ill. Adm. Code 652; and

E) Emergency operation requirements found in 35 Ill. Adm. Code 607.103;

5) daily equipment checks;

6) collection of required samples and submission of these samples to a certified laboratory;

7) maintaining booster pump stations and high service pumps;

8) maintaining spare parts inventory;

9) maintaining and timely submitting to the Agency all required operating records and reports, including but not limited to:

A) consumer confidence reports;

B) drinking water compliance monitoring reports;

C) discharge monitoring reports; and

D) monthly operating reports;

10) providing labor and materials for correcting any maintenance and operational problems;

11) maintaining and implementing emergency operating plans;

12) performing preventive maintenance on equipment as recommended by the manufacturer;

13) performing routine operational control testing as recommended by the Agency;

14) issuing public notices when required by 35 Ill. Adm. Code 653.403;

15) issuing boil orders to the public, and contacting the regional office and local health department whenever boil orders are issued; and

16) responding to Agency requests for information or site visits;

e) The signatures of the contract operator and the owner or official custodian of the community water supply.

(Source: Added at 36 Ill. Reg. 12080, effective August 1, 2012)

**Section 680.1015 Documentation of Contract Provisions**

The contract operator must maintain records to document that all contract provisions are being met.

(Source: Added at 36 Ill. Reg. 12080, effective August 1, 2012)

**Section 680.1020 Request for Contract Approval**

a) The owner of the community water supply must submit the contract delegating responsibility and authority to the contract operator to the Agency for approval within 30 days following the execution of the contract.

b) The request for approval must be sent to following address:

Illinois EPA
Drinking Water Compliance Assurance Section #19
1021 North Grand Avenue East
Springfield IL 62794-9276

(Source: Added at 36 Ill. Reg. 12080, effective August 1, 2012)

**Section 680.1025 Agency Review of the Contract**

a) The Agency shall approve a contract if:

1) the contract operator is properly certified;

2) the provisions of this Subpart are satisfied; and

3) the contract provisions assure proper operation of the community water supply.

b) The Agency shall, not later than 45 days following the receipt of the contract, provide written notice to the community water supply of its decision to approve or disapprove the contract.

(Source: Added at 36 Ill. Reg. 12080, effective August 1, 2012)

**Section 680.1030 Withdrawal of Approval of the Contract**

The Agency shall withdraw an approval of a contract if the Agency determines that the contract provisions are not being met or are inadequate to assure proper operation of the community water supply. The Agency shall provide written notice to the owner of the community water supply of its decision to withdraw approval.

(Source: Added at 36 Ill. Reg. 12080, effective August 1, 2012)

**Section 680.1035 Contract Modifications and Extensions**

The owners of a community water supply must submit all modifications or extensions to contracts to the Agency for approval as a new contract.

(Source: Added at 36 Ill. Reg. 12080, effective August 1, 2012)

**Section 680.1040 Termination of Contract**

If any contract approved by the Agency pursuant to this Subpart J is terminated before the expiration date in the contract, the owner of the community water supply and the contract operator must provide written notice to the Agency no less than 15 days before the contract is terminated.

(Source: Added at 36 Ill. Reg. 12080, effective August 1, 2012)

GUARDIANSHIP AND ADVOCACY COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Fee Schedule for the Office of State Guardian

2) Code Citation: 59 III. Adm. Code 301

3)

| Section Numbers: | Proposed Actions |
|---|---|
| 301.20 | Amend |
| 301.30 | Amend |
| 301.50 | Amend |
| 301.60 | Amend |

4) Statutory Authority: Guardianship and Advocacy Act [20 ILCS 3955] and Section 27-1 of the Probate Act of 1975 [755 ILCS 5/27-1]

5) Effective Date of Amendments: August 1, 2012

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: January 20, 2012; 36 Ill. Reg. 708

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

11) Differences between Proposal and Final Version: One change was made to the proposed version during the Second Notice Period and will be incorporated in the adopted versions. The change, noted by JCAR, reflects a typographical error in the proposed version that changed $100 to $150 for consistency.

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

GUARDIANSHIP AND ADVOCACY COMMISSION

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: This amendment was proposed to update the Commission's rules for the assessment of fees for wards of the Office of State Guardian. The last update was in August 2000.

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

Danielle Welliever
Director of Policy and Training
Illinois Guardianship and Advocacy Commission
160 N. LaSalle Street, Suite S-500
Chicago, IL 60601

Telephone: 312/793-5919
Fax: 312/793-4311
E-Mail: danielle.welliever@illinois.gov

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

GUARDIANSHIP AND ADVOCACY COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER III: GUARDIANSHIP AND ADVOCACY COMMISSION

PART 301
FEE SCHEDULE FOR THE OFFICE OF STATE GUARDIAN

Section
301.10 Authority and Purpose
301.20 Definitions
301.30 Assessment of Fees
301.40 Notice
301.50 Collection of Fees
301.60 Fee Schedules

AUTHORITY: Implementing and authorized by the Guardianship and Advocacy Act [20 ILCS 3955] and Section 27-1 of the Probate Act of 1975 [755 ILCS 5/27-1].

SOURCE: Adopted and codified at 6 Ill. Reg. 15019, effective November 24, 1982; amended at 7 Ill. Reg. 8528, effective July 6, 1983; amended at 14 Ill. Reg. 17964, effective November 15, 1990; amended at 24 Ill. Reg. 13016, effective August 21, 2000; amended at 36 Ill. Reg. 12090, effective August 1, 2012.

**Section 301.20 Definitions**

Terms are defined as follows for the purpose of this Part, unless the context requires otherwise:

"Account" means a statement in writing of receipts and disbursements from a ward's estate by the guardian during a stated period of time.

"Case Opening" means the internal administrative process used by OSG in establishing a temporary or ongoing guardianship case, including, but not limited to, collecting and reviewing necessary financial, legal, medical or social information pertaining to the ward or the ward's estate; opening bank or other financial accounts on the ward's behalf; assigning OSG representatives to perform guardianship responsibilities for the ward; collecting and receiving property of the ward; creating files, summaries and other documentary information necessary for the management of the ward or the ward's estate; and all other activities related to preparing for and assuming the responsibilities of guardian.

"Commission" or "GAC" means the Guardianship and Advocacy Commission ~~(also referred to as "GAC")~~.

"Court" means the probate court having jurisdiction over the ward and/or the estate of a ward.

"Estate" means all property owned by the ward, regardless of whether the Office of State Guardian is guardian of the person or estate of the ward, including, but not limited to, all cash, savings accounts, checking accounts, certificates of deposit, money market accounts, bonds, stocks or other negotiable securities or instruments, mutual fund shares, furniture, automobiles, other tangible personal property, and real estate.

"Fee" or "Fees" means any costs assessed by the Office of State Guardian against a ward or a ward's estate for guardianship services, including case opening fees, monthly guardianship services fees, guardianship petitioning fees, and fees for the sale or management of real or personal property.

"Fee Schedules" mean tables showing the amounts of moneys the ward or the ward's estate may be assessed for guardianship services, not including charges for outside services procured by the guardian.

"Financial Hardship" means that the total value of liquid assets of a living ward ~~would fall below $6,500 or the ward's estate~~ would ~~otherwise~~ be inadequate to provide or obtain care, assistance, education, training, sustenance, housing, treatment or other goods or services vital to the well being of the ward or his or her dependents, resulting in the risk of harm to the ward or the ward's dependents. Wards residing in independent domestic settings generally fall into this category.

"Guardian" means a court appointed guardian of the person, estate, or both, of a ward, and includes temporary, limited and plenary guardianship.

"Guardianship Petitioning" (see~~,~~ "Petitioning").

"Guardianship Services" means work performed by the Office of State Guardian and its representatives in becoming guardian and all guardianship duties performed thereafter on behalf of a particular ward, including, but not limited to, preparation and filing of periodic reports, inventories, petitions for expenditures, current and final accounts; sale or other disposition of real or personal property;

managing all assets of an estate; securing residential placements and transfers; monitoring, evaluation and consent for medical treatment and habilitation programing; appearing for and representing a ward in legal proceedings; procuring other outside services for the benefit of the ward or the ward's estate; and quarterly, annual and other visits as necessary to provide an active guardianship program.

"Inventory" means a detailed list of all property owned by the ward that is filed with the court by the guardian.

"Liquid Assets" mean the portion of a ward's estate comprised of cash, negotiable instruments, or other similar property that is readily convertible to cash and has a readily ascertainable fixed value, including but not limited to savings accounts, checking accounts, certificates of deposit, and money market accounts~~, corporate or municipal bonds, U.S. savings bonds, stocks or other negotiable securities, and mutual fund shares~~.

"Notice of Assessment" means a prior written statement mailed, pursuant to the procedures outlined in Section 301.40(b) of this Part, to the ward or other interested party, including the ward's~~wards~~ spouse, adult children, parents, adult siblings, and other nearest adult kindred, advising that costs shall be assessed by OSG against a ward or the ward's estate.

"Office of State Guardian" or "OSG"~~(also referred to as "OSG")~~ means a division of the Guardianship and Advocacy Commission, acting in its capacity as guardian of the estate, person, or both of a ward.

"Outside Services" means those services not provided by OSG or GAC employees, including the services of attorneys, corporations, agencies, individuals, or other entities retained to represent the interests of a ward or a ward's estate, who may charge the ward's estate for services rendered, subject to court approval. The fees may be in addition to fees assessed pursuant to the OSG fee schedules.

"Petitioning" or "Guardianship Petitioning" means the preparation, filing and litigation of guardianship petitions or petitions for the adjudication of disability of alleged disabled persons pursuant to the Probate Act of 1975 [755 ILCS 5/Art. XIa].

"Property Management" or "Management of Property" means activities related to the discovery, possession, protection, conservation, listing for sale, auction or rental, solicitation of purchase or rental offers, title search, preparation of documents and forms, negotiations, payment of costs, fees, insurance, taxes, and penalties associated with the maintenance, operation, sale, auction or rental, participation in closing or completion of a sale or rental arrangements, and any other activities required in order for Office of State Guardian to protect, maintain or convey any interest of a ward in real or personal property, including a leasehold interest, subject to court approval.

"Ward" means a ~~ward or a~~ disabled person as defined by Section 11a-2 of the Probate Act of 1975 [755 ILCS 5/11a-2] who is at least 18 years of age, and for whom the Office of State Guardian has been appointed guardian.

(Source: Amended at 36 Ill. Reg. 12090, effective August 1, 2012)

**Section 301.30 Assessment of Fees**

a) Assessment – In General

1) Except as provided in subsections (c), (e) and (f) ~~below~~, all wards with liquid assets ~~valued at $6,500 or more~~ on the date of the OSG's appointment shall be assessed a one-time case opening fee for establishment of the case by OSG. The rate of the case opening fee shall be $300 when~~$200, where~~ OSG serves as guardian of the person, $500 when~~$300, where~~ OSG serves as guardian of the estate, and $1,000 when~~$500, where~~ OSG serves as guardian of both the person and estate. Case opening fees shall be assessed for each appointment, including a re-appointment as guardian for the same ward more than 6 months after the termination of a prior appointment, temporary or otherwise, involving similar powers and duties.

2) A monthly fee for guardianship services other than petitioning for appointment of guardians and sale or management of real or personal property shall be assessed against all wards with liquid assets ~~valued at $6,500 or more~~ on any day during the month. The fee for the OSG's services as guardian of the person shall be $150~~100~~ per month. The fee for the OSG's services as guardian of the estate shall be a sliding scale rate up to a maximum of $1,000~~$350~~ per month, based upon the highest value

of the ward's liquid assets~~,~~ on any day during the month~~, so long as the value of the ward's liquid assets is $6,500 or more~~. In addition, in all cases where OSG serves as representative payee under programs administered by the Social Security Administration, the Railroad Retirement Board, or similar programs, or serves as protective payee for the receipt of private pension funds, the fee for providing representative payee services shall be ~~$25 per month~~in accordance with Social Security Administration and Railroad Retirement Board guidelines.

3) Fees for guardianship petitioning services shall be assessed upon the entry of a court order finally disposing of the petition for appointment of a guardian. Guardianship petitioning fees shall be in addition to case opening fees, monthly guardianship services fees, and fees for the sale or management of real or personal property. The rate for guardianship petitioning fees shall be $500~~determined using a sliding scale up to a maximum of $600, based upon the value of the ward's liquid assets in excess of $6,500 on the date of the entry of the final order disposing of the guardianship petition, or, if a temporary guardian with powers over the estate is appointed, on the date of that appointment~~.

4) Fees for the sale of real or personal property shall be assessed when a sale is completed, or at the time of the final account. If no sale takes place during the OSG's term as guardian, fees for management of real or personal property shall be assessed at the time of the final account. Fees for the sale or management of a ward's property shall be in addition to case opening, monthly guardianship services and guardianship petitioning fees. The rate for real property sale fees shall be $1,000 at the time of the sale. The rate for real property ~~sale or~~ management fees shall be determined using a sliding scale up to a maximum of $1,000, based upon the value of the real property ~~at the time of the sale, or, if the property is not sold,~~ at the time of the annual or final account. The rate for personal property sale or management fees shall be determined using a sliding scale up to a maximum of $700, based upon the value of the personal property at the time of the sale, or if the property is not sold, at the time of the final account.

5) No assessment of fees for guardianship services shall request an amount greater than that which has been established by the fee schedule in effect at the time the ward is provided notice of the assessment of fees.

6) No fees for guardianship services shall be assessed on estates ~~smaller than $6,500~~ if financial hardship would result for the ward.

b) Assessments – Valuation of Property. Where OSG seeks to assess fees for the management of property that is not sold during the course of administration of a ward's estate, the value of the property in question shall be estimated by any reasonable methods acceptable to the court. Unless specifically ordered by the court to do so, OSG shall not retain an appraiser at estate expense to establish the value of a ward's property if the appraisal is not otherwise required for responsible management of the estate.

c) Assessments – Court Approval. All fee assessments made by OSG shall be subject to court approval.

d) Assessments – On Exhausted Estates

1) In estates that may be exhausted by existing claims, the Office of State Guardian may petition for its fees in spite of the fact that the granting of these fees by the court might result in some or all of these claims going totally or partially unpaid.

2) Proper notice of the petition for fees shall be mailed to each known claimant before the hearing is to take place.

e) Assessments – On Entitlements. Fees shall not be assessed on income or support derived from Medicaid or TANF. Income or support derived from Social Security and Medicare shall be subject to OSG fee assessment unless the funds have been expressly earmarked for another purpose.

f) Assessments – Hardship and Waiver. No fees shall be assessed if financial hardship to the ward would result. Guardianship fees will be terminated in the month following the death of the ward. ~~The Office of State Guardian may waive fees if no substantial guardianship services have been provided the ward.~~

(Source: Amended at 36 Ill. Reg. 12090, effective August 1, 2012)

**Section 301.50 Collection of Fees**

a) Pay Collection and Liability for Payment - In General. Office of State Guardian shall take reasonable steps to collect fees from parties holding estate funds when fees have been assessed. Liability for fee payment shall be limited to the ward's estate.

b) Collection of Case Opening Fees. Case opening fees shall be collected by OSG upon the entry of the court's order approving its petition for fees.

c) Collection of Monthly Fees. Monthly fees shall be collected by OSG on a regular basis at the time the fees are assessed, after entry of an order appointing Office of State Guardian but only where prior court approval has been obtained. Court approval should be obtained at the earliest reasonable opportunity.

d) Collection of Fees For Guardianship Petitioning. Fees for guardianship petitioning shall be collected after the entry of the order appointing the guardian or other final disposition of the petition, or at the time of the next or final account.

e) Collection of Fees for Sale or Management of Property. Fees for the sale or management of a ward's real or personal property shall be collected after the sale is completed, or at the time of the next or final account.

f) Collection of Fees for Preparation and Filing of State or Federal Income Tax Returns. Fees for the preparation and filing of a ward's State or federal income tax return shall be assessed at the time of filing of the tax return, for each tax year in which a return is filed, when prior court approval has been obtained. Court approval should be obtained at the earliest reasonable opportunity.

g) Collection of Fees for the Settlement of a Personal Injury Cause of Action. Fees for the settlement of a ward's personal injury cause of action shall be collected at the time of the approval of the settlement by the probate court.

h) Collection of Fees for the Establishment of a Recognized Trust for the Purpose of Protecting or Conserving the Ward's Financial Estate. Fees for establishing a recognized trust for the purpose of conserving a ward's guardianship estate or protecting the ward's assets, and for petitioning the court for the approval of the trust, shall be collected at the time of the approval of the establishment of the trust by the probate court.

i) Collection – Hardship and Waiver. No fees shall be collected if financial

hardship to the ward would result. The Office of State Guardian may waive or reduce fees assessed ~~if the reasonable charges for guardianship services rendered are below the fee schedule amounts or~~ if the costs of collection would far exceed the fees due.

j) Collection – Impact on Creditors. The Office of State Guardian may collect fees even when claims of creditors of the ward may be compromised, so long as no financial hardship to the ward or the ward's dependants would result.

(Source: Amended at 36 Ill. Reg. 12090, effective August 1, 2012)

**Section 301.60 Fee Schedules**

a) Statutory Authority for Assessment of Fees. The Commission, under Section 705(i) of the GAC Act, is given the power to collect fees for its legal and guardianship services.

b) Procedure for Changing Fee Schedule. No changes will be made in this fee schedule without prior approval by the Commission and submission of its revision pursuant to the Illinois Administrative Procedure Act [5 ILCS 100].

c) Schedule for the Assessment of One-Time Case Opening Fees

| | | |
|---|---|---|
| 1) | Guardianship of the Person | $300~~200~~ |
| 2) | Guardianship of the Estate | $500~~300~~ |
| 3) | Guardianship of the Person and Estate | $1000~~500~~ |

d) Schedule for the Assessment of Monthly Guardianship Services Fees

| | | |
|---|---|---|
| 1) | Person Cases | $150~~100~~ |
| 2) | Estate Cases: | |

| Total Value of Liquid Assets | Monthly Fee |
|---|---|
| $ 24,999 and below | $ 200 |
| 25,000 – 49,999 | 300 |

| | |
|---|---|
| 50,000 – 99,999 | 400 |
| 100,000 – 249,999 | 500 |
| 250,000 and above | 1,000 |
| ~~$ 6,500-9,999~~ | ~~$100~~ |
| ~~10,000-19,999~~ | ~~125~~ |
| ~~20,000-29,999~~ | ~~150~~ |
| ~~30,000-39,999~~ | ~~175~~ |
| ~~40,000-49,999~~ | ~~200~~ |
| ~~50,000-59,999~~ | ~~225~~ |
| ~~60,000-69,999~~ | ~~250~~ |
| ~~70,000-79,999~~ | ~~275~~ |
| ~~80,000-89,999~~ | ~~300~~ |
| ~~90,000-99,999~~ | ~~325~~ |
| ~~100,000 and above~~ | ~~350~~ |

3) Representative Payee Cases~~, When Estate Value is $6,500 or More~~

| | |
|---|---|
| ~~Monthly Fee~~ | ~~$25~~ |

The monthly fee will be in compliance with current social security and railroad retirement regulations.

e) ~~Schedule for the~~ Assessment of Guardianship Petitioning Fees $500

| ~~Estate~~ | ~~Petitioning Fee~~ |
|---|---|
| ~~$ 6,500-9,999~~ | ~~$100~~ |
| ~~10,000-19,999~~ | ~~150~~ |
| ~~20,000-29,999~~ | ~~200~~ |
| ~~30,000-39,999~~ | ~~250~~ |

| | |
|---|---|
| ~~40,000-49,999~~ | ~~300~~ |
| ~~50,000-59,999~~ | ~~350~~ |
| ~~60,000-69,999~~ | ~~400~~ |
| ~~70,000-79,999~~ | ~~450~~ |
| ~~80,000-89,999~~ | ~~500~~ |
| ~~90,000-99,999~~ | ~~550~~ |
| ~~100,000 and above~~ | ~~600~~ |

f) Real Property~~Schedule for the Assessment of Fees for the Sale or Management of Real Property~~

1) Assessment of Fees for the Sale of Real Property $1,000

2) Assessment of Fees for the Management of Real Property, for Property Not Sold

| Net Sale Value of Property or Estimated Value | Fee Amount |
|---|---|
| $ 5,000 – 9,999 | $ 250 |
| 10,000 – 19,999 | 300 |
| 20,000 – 29,999 | 350 |
| 30,000 – 39,999 | 400 |
| 40,000 – 49,999 | 450 |
| 50,000 – 59,999 | 500 |
| 60,000 – 69,999 | 600 |
| 70,000 – 79,999 | 700 |
| 80,000 – 89,999 | 800 |
| 90,000 – 99,999 | 900 |
| 100,000 and above | 1,000 |

g) Schedule for the Assessment of Fees for the Sale ~~or Management~~ of Personal Property

| Net Sale Value of Property or Estimated Value | Fee Amount |
|---|---|
| $ 3,000 – 9,999 | $150 |
| 10,000 – 19,999 | 200 |
| 20,000 – 29,999 | 250 |
| 30,000 – 39,999 | 300 |
| 40,000 – 49,999 | 350 |
| 50,000 – 59,999 | 400 |
| 60,000 – 69,999 | 450 |
| 70,000 – 79,999 | 500 |
| 80,000 – 89,999 | 550 |
| 90,000 – 99,999 | 600 |
| 100,000 and above | 700 |

h) Schedule for the Preparation and Filing of State or Federal Income Tax Returns

1) For each federal Income Tax return filed $100~~50~~

2) For each state Income Tax return filed $50~~25~~

i) Schedule for the Settlement of a Personal Injury Cause of Action

For each personal injury cause of action approved by the probate court $500~~250~~

j) Schedule for the Establishment of a Recognized Trust for the Purpose of Protecting or Conserving the Ward's Financial Estate and Petitioning the Court for Establishment of the Trust

For each trust approved by the probate court $500~~250~~

(Source: Amended at 36 Ill. Reg. 12090, effective August 1, 2012)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Child Care

2) Code Citation: 89 Ill. Adm. Code 50

3)

| Section Numbers: | Adopted Action: |
|---|---|
| 50.250 | Amendment |
| 50.260 | Repeal |
| 50.610 | Amendment |
| 50.640 | Amendment |
| 50.650 | Amendment |

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

5) Effective Date of Amendments: July 10, 2012

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, is on file in the agency's principal office and is available for public inspection.

9) Notice of proposal published in the *Illinois Register*: November 14, 2011; 35 Ill. Reg. 18475

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

11) Differences between Proposal and Final Version: No substantive changes were made to the text of the proposed rulemaking.

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

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

14) Are there any amendments pending on this Part? Yes

Section Numbers: Proposed Action: *Illinois Register* Citation:

| | | |
|---|---|---|
| 50.710 | New Section | 35 Ill. Reg. 17560; November 4, 2011 |
| 50.720 | New Section | 35 Ill. Reg. 17560; November 4, 2011 |
| 50.730 | New Section | 35 Ill. Reg. 17560; November 4, 2011 |
| 50.740 | New Section | 35 Ill. Reg. 17560; November 4, 2011 |
| 50.750 | New Section | 35 Ill. Reg. 17560; November 4, 2011 |
| 50.230 | Amendment | 36 Ill. Reg. 4648; March 30, 2012 |

15) Summary and Purpose of Rulemaking: This rulemaking limits the number of times a family can receive child care assistance while looking for employment or between school semesters. Section 50.250 allows for the Department to provide payments to secure or maintain a child care arrangement for a period not to exceed one month when child care arrangements would otherwise be lost and subsequent employment or activity is scheduled to begin or resume within that period. Currently, there is no limit to the number of times a family can utilize these provisions—commonly called a grace period. This rulemaking establishes a limit of three grace periods in any 12-month period for child care assistance. It also limits the grace period to one 90-day job search in any 12-month period for approved Child Care Collaboration Programs.

This rulemaking also deletes references to American Recovery and Reinvestment Act (ARRA) funds as these funds are no longer available to the Department.

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

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

217/785-9772

17) Do these amendments require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

PART 50
CHILD CARE

SUBPART A: GENERAL PROVISIONS

Section
50.101 Incorporation by Reference
50.105 Definitions
50.110 Participant Rights and Responsibilities
50.120 Notification of Available Services
50.130 Child Care Overpayments and Recoveries

SUBPART B: APPLICABILITY

Section
50.210 Child Care
50.220 Method of Providing Child Care
50.230 Child Care Eligibility
50.235 Income Eligibility Criteria
50.240 Qualified Provider (Repealed)
50.250 Additional Service to Secure or Maintain Child Care
50.260 Job Search (Repealed)

SUBPART C: PAYMENT FEES

Section
50.310 Fees for Child Care Services
50.320 Maximum Monthly Income and Parent Fee by Family Size, Income Level and Number of Children Receiving Full-time Care

SUBPART D: PROVIDER REQUIREMENTS

Section
50.400 Purpose
50.410 Qualified Provider

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

50.420 Provider Registration and Certification Requirements
50.430 Provider Background Checks
50.440 Payment for Child Care Services

SUBPART E: GREAT START PROGRAM

Section
50.510 Great START Program
50.520 Method of Providing the Wage Supplement
50.530 Eligibility
50.540 Employer Responsibility
50.550 Notification of Eligibility
50.560 Phase-in of Wage Supplement Scale
50.570 Wage Supplement Scale
50.580 Evaluation

SUBPART F: CHILD CARE COLLABORATION PROGRAM

Section
50.610 Child Care Collaboration Program
50.620 Approvable Models of Collaboration
50.630 Requirements for Approval in the Child Care Collaboration Program
50.640 Notification of Eligibility
50.650 Rules and Reporting for the Child Care Collaboration Program

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

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9502, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 14961, effective November 10, 1997; emergency amendment at 22 Ill. Reg. 12816, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 21037, effective November 27, 1998; emergency amendment at 23 Ill. Reg. 10875, effective August 20, 1999, for maximum of 150 days; amended at 24 Ill. Reg. 1058, effective January 10, 2000; emergency amendment at 24 Ill. Reg. 6604, effective April 5, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 13987, effective September 1, 2000; amended at 24 Ill. Reg. 15423, effective October 10, 2000; emergency amendment at 25 Ill. Reg. 2735, effective February 5, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 8176, effective June 23, 2001; emergency amendment at 25 Ill. Reg. 8443, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14854, effective October 31, 2001; emergency amendment at 25

Ill. Reg. 16116, effective December 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7113, effective April 25, 2002; amended at 27 Ill. Reg. 12090, effective July 14, 2003; amended at 27 Ill. Reg. 18411, effective November 24, 2003; amended at 28 Ill. Reg. 6895, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 10121, effective July 1, 2004, for a maximum of 150 days; emergency expired November 27, 2004; amended at 29 Ill. Reg. 2687, effective February 4, 2005; emergency amendment at 29 Ill. Reg. 13253, effective August 11, 2005, for a maximum of 150 days; emergency expired January 7, 2006; amended at 30 Ill. Reg. 11190, effective June 6, 2006; amended at 31 Ill. Reg. 12584, effective August 20, 2007; emergency amendment at 31 Ill. Reg. 13350, effective September 10, 2007, for a maximum of 150 days; emergency expired February 6, 2008; amended at 32 Ill. Reg. 6048, effective March 31, 2008; emergency amendment at 32 Ill. Reg. 6652, effective April 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 9604, effective June 20, 2008; amended at 32 Ill. Reg. 14742, effective August 28, 2008; amended at 33 Ill. Reg. 8195, effective June 8, 2009; emergency amendment at 33 Ill. Reg. 15889, effective November 1, 2009, for a maximum of 150 days; emergency amendment at 33 Ill. Reg. 16517, effective November 1, 2009, for a maximum of 150 days; emergency expired March 30, 2010; amended at 34 Ill. Reg. 5275, effective March 29, 2010; emergency amendment at 34 Ill. Reg. 8619, effective June 16, 2010, for a maximum of 150 days; emergency expired on November 12, 2010; amended at 34 Ill. Reg. 10512, effective July 8, 2010; amended at 34 Ill. Reg. 19539, effective December 6, 2010; amendment at 35 Ill. Reg. 1397, effective January 6, 2011; amended at 35 Ill. Reg. 3993, effective February 25, 2011; emergency amendment at 35 Ill. Reg. 6583, effective April 1, 2011, for a maximum of 150 days; emergency expired August 28, 2011; amended at 35 Ill. Reg. 8878, effective May 25, 2011; amended at 36 Ill. Reg. 1564, effective January 17, 2012; amended at 36 Ill. Reg. 12104, effective July 10, 2012.

SUBPART B: APPLICABILITY

**Section 50.250 Additional Service to Secure or Maintain Child Care**

The Department will provide payments to secure or maintain a child care arrangement for a period not to exceed one month when~~where~~ child care arrangements would otherwise be lost and subsequent employment or activity is scheduled to begin or resume within that period. To qualify, the parent must be approved for child care assistance and must report a loss of employment or break in the approved activity within 10 days after the date of loss or break, without exception. Families are eligible to receive care under this Section three times in any 12-month period. Payments shall not be approved if the child does not attend care.

(Source: Amended at 36 Ill. Reg. 12104, effective July 10, 2012)

**Section 50.260 Job Search (Repealed)**

~~During the period of November 1, 2009 through September 30, 2011, or as long as American Recovery and Reinvestment Act (ARRA) funds are available, the Department will provide payments to maintain a child care arrangement for a period not to exceed 90 days to allow parents who have been participating in the child care assistance program and lose their jobs to look for a new job. To qualify, the parent shall report a loss of employment within 15 days after the date of the loss, without exception. Families are eligible to receive care under this Section one time in any 12-month period. Payments shall not be approved if the child does not attend care.~~

(Source: Repealed at 36 Ill. Reg. 12104, effective July 10, 2012)

SUBPART F: CHILD CARE COLLABORATION PROGRAM

**Section 50.610 Child Care Collaboration Program**

a) A Child Care Collaboration is defined as any braiding of Illinois child care subsidy funds or programs with other early childhood funds or programs to create higher quality full day, full year services for eligible families with young children. The purposes of the Department's Child Care Collaboration Program are:

1) to facilitate collaboration between Illinois child care and other early childhood programs; and

2) to increase, through collaboration, the quality and quantity of early care and education for families in Illinois who are working and/or participating in an approved training/education program.

b) Child care collaborative arrangements approved by the Department under this Section will benefit participating early childhood programs, children and families by providing a higher quality of care. Head Start, Illinois State Board of Education (ISBE) pre-kindergarten, and child care providers eligible under this Section must be able to demonstrate this increased quality of care.

c) All Illinois early childhood programs using child care subsidy funds in collaboration with other funding, for example, Head Start or ISBE pre-kindergarten, must comply with this Section.

d) The Department will approve child care collaborative arrangements under this Section provided:

1) the provider can demonstrate how the collaboration improves the quality of care;

2) children are served in one location for their full day of care;

3) parent co-payments are collected and documented according to existing Child Care Rules (see Sections 50.310 and 50.320);

4) the provider can demonstrate how the collaboration is coordinated with the broader local early childhood community and is based on community need;

5) the provider is qualified and eligible to receive child care reimbursement (see Sections 50.240 and 50.410) and is a profit or non-profit early childhood center or licensed family child care home; and

6) the provider is using a child care contract or a child care certificate.

e) If the conditions of eligibility in subsection (d) of this Section are met and the collaboration is approved by the Department, eligibility will be determined in accordance with all current Child Care Rules (see Sections 50.230 and 50.235), as specified by this Part, with the following three exceptions:

1) approved Child Care Collaboration Programs will determine child and/or family eligibility annually;

2) approved Child Care Collaboration Programs will use a 90-day job loss grace period. Families are limited to one 90-day job search in any 12-month period; and

3) children and/or families in approved Child Care Collaboration Programs will maintain indefinite eligibility for child care when the child's or family's participation in the collaboration is part of the current TANF Responsibility and Services Plan.

~~f) Through September 30, 2011, or as long as American Recovery and Reinvestment Act (ARRA) funds are available, the Department will extend the job loss grace period in subsection (e)(2) through the end of the program year. The end of the program year is defined as the end of the family's eligibility period, or not less than 90 days. To qualify, the parent shall report a loss of employment within 10 days after the date of loss, without exception. Families are eligible to receive care under this Section one time in any 12-month period. Payment shall not be approved if the child does not attend care.~~

(Source: Amended at 36 Ill. Reg. 12104, effective July 10, 2012)

**Section 50.640 Notification of Eligibility**

The Department or its agents will notify applicants, in~~it~~ writing, of their acceptance into the Child Care Collaboration Program, and subsequent eligibility to use the accompanying policies detailed in Section 50.610(e), within 60 days after receipt of the provider's application. Providers that disagree with the eligibility determination may apply for reconsideration by writing to the Chief of the Department's Bureau of Child Care and Development at the Illinois Department of Human Services Child Care Bureau, 400 W. Lawrence~~300 Iles Park Place, 2nd Floor~~, Springfield, Illinois 6276~~62764~~ within 60 days after notification of the original determination. The Chief of the Department's Bureau of Child Care and Development will make the final decision on eligibility for the program.

(Source: Amended at 36 Ill. Reg. 12104, effective July 10, 2012)

**Section 50.650 Rules and Reporting for the Child Care Collaboration Program**

a) All approved Child Care Collaboration Programs will adhere to all Department rules governing the Illinois Child Care Subsidy Program with the following exceptions:

1) eligibility for families in an approved Child Care Collaboration Program will be determined annually;

2) families participating in an approved Child Care Collaboration Program will have a grace period of 90 days subsequent to loss of employment limited to one time in any 12-month period; and

3) eligibility for care in an approved Child Care Collaboration Program will be indefinite when the child's or family's participation in the collaboration is part of their current TANF Responsibility and Services Plan.

b) Approved Child Care Collaboration Programs must maintain their quality standards as specified in Sections 50.610(a) and 50.630(a).

c) All Department-approved Illinois Child Care Collaboration Programs will comply with the following reporting and documentation items:

1) accurate completion of the Department's current Child Care Application for each collaboration family, with the appropriate place marked that indicates the family's participation in an approved collaboration; and

2) submittal of an annual report to the Department, using a form to be specified by the Department.

(Source: Amended at 36 Ill. Reg. 12104, effective July 10, 2012)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Closure of a Rehabilitation Case

2) Code Citation: 89 Ill. Adm. Code 595

3)

| Section Numbers: | Adopted Action: |
|---|---|
| 595.10 | Amendment |
| 595.20 | Amendment |
| 595.30 | Amendment |
| 595.40 | Amendment |
| 595.50 | Amendment |

4) Statutory Authority: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)]

5) Effective Date of Amendments: July 10, 2012

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) Notices of proposal published in the *Illinois Register*: 35 Ill. Reg. 18485; November 14, 2011

10) Has JCAR issued a Statement of Objection to this rulemaking? Yes

11) Differences between Proposal and Final Version: None.

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? 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: This rulemaking pertains to the Division of Rehabilitation Services. This rulemaking will add provisions of instructing customers of

their right to contact the Hearings Coordinator in order to request mediation or an impartial hearing. A definition has been removed and will be added to 89 Ill. Adm. Code 521.

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

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

217/785-9772

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 595
CLOSURE OF A REHABILITATION CASE

Section
595.10 General Applicability
595.20 Closure Prior to Determination of Eligibility
595.30 Non-Rehabilitation Closure
595.40 Closure of a Customer Who has Achieved the Employment Outcome of the IPE
595.50 Employment Outcomes

AUTHORITY: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].

SOURCE: Adopted at 27 Ill. Reg. 12621, effective July 21, 2003; amended at 29 Ill. Reg. 15964, effective October 7, 2005; amended at 36 Ill. Reg. 12113, effective July 10, 2012.

**Section 595.10 General Applicability**

a) Rules contained within this Part are applicable to all closures of customers' cases in the DHS-DRS~~ORS~~ Vocational Rehabilitation (VR) program.

b) Closure of a customer's case shall be done:

1) any time in the VR process when the counselor has determined the appropriate standards of this Part have been met; or

2) any time in the process at the customer's request.

c) A~~An applicant or~~ customer who is dissatisfied with any determination made by the counselor under this Part may request a timely review of the determination. The process of the~~such~~ review shall follow 89 Ill. Adm. Code 510 (Appeals and Hearings).

d) At the time of case closure, the customer shall be provided a written notice of the following rights:

1) The availability of and information on how to contact the Client Assistance Program (CAP). This information shall include a notice that CAP may provide assistance during any appeal or mediation.

2) The customer's right to an impartial hearing and to pursue mediation of the issue.

3) Information on how a mediator or impartial hearing officer will be selected.

4) The contact information for~~name and address of~~ the DHS Hearings Coordinator with whom~~individual with whom~~ requests for mediation or impartial hearing may be filed.

(Source: Amended at 36 Ill. Reg. 12113, effective July 10, 2012)

**Section 595.20 Closure Prior to Determination of Eligibility**

A~~An applicant's case~~ case may be closed, prior to making an eligibility determination, if the customer~~individual~~ declines to participate or is unable to complete an assessment for determining eligibility and priority for services. DHS-DRS~~ORS~~ shall make a reasonable number of attempts to contact the customer~~applicant or the applicant's representative~~ to encourage participation.

(Source: Amended at 36 Ill. Reg. 12113, effective July 10, 2012)

**Section 595.30 Non-Rehabilitation Closure**

A customer's case may be closed any time the counselor has determined that any of the following are present:

a) the customer has refused services or further services or has failed to cooperate;

b) the customer cannot be located, is otherwise unavailable for services for an extended period of time, or has died;

c) the ~~applicant or~~ customer is determined ineligible. When ineligibility is determined, the counselor shall:

1) provide an opportunity for full consultation with the customer~~individual~~;

2) inform the customer~~individual~~, in writing and by other means if appropriate, ~~to the customer,~~ of his or her~~the individual's~~ ineligibility determination and the reasons for the determination, and inform the customer of his or her appeal rights~~individual to file an appeal if the individual is dissatisfied with the action~~ (see Section 595.10);

3) refer the customer~~individual~~ to other training or employment related programs that are part of the service delivery system under the Workforce Investment Act (29 USC 2821); and

4) review any ineligibility determinations made after a period of trial work that the customer is incapable of achieving an employment outcome, ~~within 12 months and annually thereafter,~~ if requested by the customer, within 12 months and annually thereafter.~~individual, any ineligibility determination made after a period of trial work that the individual is incapable of achieving an employment outcome.~~ This review need not be completed when:

A) the customer~~individual~~ has refused a review;~~it,~~

B) the customer is no longer living in Illinois or the customer's~~individual's~~ whereabouts are unknown;~~,~~ or

C) the medical condition is rapidly progressing or terminal.

(Source: Amended at 36 Ill. Reg. 12113, effective July 10, 2012)

**Section 595.40 Closure of a Customer Who has Achieved the Employment Outcome of the IPE**

A determination that the customer has achieved an employment outcome must meet all the following criteria:

a) The customer has achieved the employment outcome described in the customer's IPE and the employment outcome:

1) is consistent with the customer's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choices;

2) is in the most integrated setting possible, consistent with the customer's informed choice; and

3) includes substantial services to the customer~~. Substantial services are defined as services that, provided in the context of the counseling relationship, collectively and significantly contribute to the achievement of an employment outcome consistent with the informed choice of the individual~~;

b) The customer has maintained the employment outcome for an appropriate period of time, not less than 90 days, necessary to ensure the stability of the employment outcome after closure, and no longer needs VR services;

c) At the end of this appropriate period, the customer and the qualified rehabilitation counselor employed by DHS-DRS~~ORS~~ consider the employment outcome to be satisfactory and agree that the customer is performing well on the job; and

d) The customer is informed of the availability of post-employment services.

(Source: Amended at 36 Ill. Reg. 12113, effective July 10, 2012)

**Section 595.50 Employment Outcomes**

The following may be considered as employment outcomes for a VR customer:

a) Competitive Employment.

b) Vending Facility~~Business Enterprise~~ Program for the Blind (89 Ill. Adm. Code 650).

c) Supported Employment. Closure in supported employment is an employment outcome when the supported employment is competitive work in an integrated setting and the compensation is based on a rate at least equal to the minimum wage with applicable benefits.~~ The customer, because of the nature and severity of the disabilities, needs intensive, time-limited support services from DHS-ORS and extended services after transition to ongoing support services. Time-limited support services shall be provided for no longer than 18 months from the initial date of placement unless special circumstances exist and the customer and~~

~~counselor agree extension of this time period is necessary for the customer to achieve the employment outcome.~~

d) Homemaker. Closure as a homemaker is an employment outcome when the VR services provided related directly to the customer performing or supervising housework required in the home.

e) Family Worker. Closure as an unpaid family worker is an employment outcome when the VR services provided to the customer are directly related to the customer performing work activities in the particular business.

f) Any other type of employment, including self-employment, telecommuting or business ownership, that is consistent with the customer's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

(Source: Amended at 36 Ill. Reg. 12113, effective July 10, 2012)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Commercial Fishing and Musseling in Certain Waters of the State

2) Code Citation: 17 Ill. Adm. Code 830

3) Section Number: 830.10 — Adopted Action: Amendment

4) Statutory Authority: Implementing and authorized by Sections 1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5]

5) Effective Date of Amendment: July 16, 2012

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: January 20, 2012; 36 Ill. Reg. 722

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? Yes

| Section Numbers | Proposed Action | Illinois Register Citation |
|---|---|---|
| 830.13 | Amendment | 35 Ill. Reg. 19033; November 18, 2011 |
| 830.40 | Amendment | 35 Ill. Reg. 19033; November 18, 2011 |
| 830.80 | Amendment | 35 Ill. Reg. 19033; November 18, 2011 |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

15) Summary and Purpose of Rulemaking: This Part has been amended to increase the commercial device fishable area of the Embarras River

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

George Sisk, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 830
COMMERCIAL FISHING AND MUSSELING IN CERTAIN WATERS OF THE STATE

Section
830.5 Definitions
830.10 Waters Open to Commercial Harvest of Fish
830.13 Special Regulations for the Commercial Harvest of Roe-Bearing Species
830.15 Waters Open to Commercial Harvest of Crayfish
830.20 Waters Open to Commercial Harvest of Mussels and Seasons
830.30 Special Regulations
830.40 Devices
830.50 Permission
830.60 Species
830.70 Size Limit
830.80 Commercial Fishing and Musseling in Additional Waters
830.90 Revocation and Suspension of Commercial Fishing and Musseling Privileges, Hearings and Appeals and Reporting Requirements

AUTHORITY: Implementing and authorized by Sections 1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5].

SOURCE: Adopted at 5 Ill. Reg. 6809, effective June 16, 1981; codified at 5 Ill. Reg. 10648; emergency amendment at 6 Ill. Reg. 6468, effective May 18, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 10680, effective August 20, 1982; amended at 7 Ill. Reg. 2707, effective March 2, 1983; amended at 10 Ill. Reg. 6926, effective April 15, 1986; amended at 11 Ill. Reg. 9513, effective May 5, 1987; amended at 12 Ill. Reg. 11714, effective June 30, 1988; amended at 15 Ill. Reg. 8544, effective May 24, 1991; amended at 16 Ill. Reg. 5257, effective March 20, 1992; amended at 17 Ill. Reg. 3177, effective March 2, 1993; emergency amendments at 18 Ill. Reg. 4671, effective March 14, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 9985, effective June 21, 1994; amended at 19 Ill. Reg. 5250, effective March 27, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 4700, effective April 1, 1997; amended at 22 Ill. Reg. 6697, effective March 30, 1998; amended at 24 Ill. Reg. 4945, effective March 13, 2000; amended at 29 Ill. Reg. 6277, effective April 25, 2005; amended at 31 Ill. Reg. 13187,

effective August 30, 2007; amended at 34 Ill. Reg. 2938, effective February 19, 2010; emergency amendment at 34 Ill. Reg. 15884, effective October 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 4187, effective February 22, 2011; amended at 36 Ill. Reg. 12120, effective July 16, 2012.

**Section 830.10 Waters Open to Commercial Harvest of Fish**

a) Mississippi River and connected public (wholly accessible by boat) backwaters, including that portion of the Kaskaskia River below the navigation lock and dam, except:

1) Quincy Bay, including Quincy Bay Waterfowl Management Area (except by special permit);

2) Spring Lake in the Upper Mississippi River Wildlife and Fish Refuge; and

3) Mark Twain U.S. Fish and Wildlife Service National Wildlife Refuge Waters (except by special permit).

b) Illinois River and connected public (wholly accessible by boat) backwaters from Route 89 highway bridge downstream, except for:

1) U.S. Fish and Wildlife National Wildlife Refuge waters;

2) Donnelly/Depue Fish and Wildlife Area;

3) Rice Lake Complex, including all of Big Lake;

4) Meredosia Lake in Cass and Morgan Counties during the central zone duck season;

5) Clear Lake in Mason County 7 days prior to and during the central zone duck season; and

6) Route 89 highway bridge to Starved Rock Dam for the commercial removal of Asian carp only by a limited number of restricted period contracts.

c) Wabash River.

d) Embarras River, except from Route 130 in Coles County upstream to the Harrison Street Bridge,~~Route 16~~ including Lake Charleston.

e) Sangamon River, downstream of Belt Route 48 southwest of Decatur to mouth in Cass County.

f) Kaskaskia River south of Route U.S. 50 Bridge to mouth in Randolph County.

g) Little Wabash River.

h) Big Muddy River south of State Route 14 highway bridge in Franklin County to mouth in Jackson County.

i) Skillet Fork.

j) Cache River from Route 51 downstream to the Mississippi River via Cache Diversion Channel but not including that portion of the Cache River between the Cache Diversion Channel Levee and the Ohio River.

k) Saline River in Gallatin and Saline Counties.

l) Ohio River, except for:

1) Lock and Dam 52 downstream to a line perpendicular with the end of the longest lock wall, including the circular cell portion;

2) Lock and Dam 53 downstream to a line perpendicular with the end of the longest lock wall, including the circular cell portion;

3) Smithland Dam downstream to a line perpendicular to the end of the outer lock wall; and

4) Within 50 yards of the mouth of any tributary or stream.

(Source: Amended at 36 Ill. Reg. 12120, effective July 16, 2012)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Department of Personnel

2) Code Citation: 80 Ill. Adm. Code 420

3)

| Section Number: | Proposed Action: |
|---|---|
| 420.10 | Amendment |
| 420.320 | Amendment |
| 420.340 | Amendment |
| 420.400 | Amendment |
| 420.420 | Amendment |
| 420.430 | Amendment |
| 420.610 | Amendment |
| 420.630 | Repealed |
| 420.645 | Amendment |
| 420.650 | Amendment |
| 420.680 | Amendment |
| 420.705 | New |
| 420.710 | Amendment |
| 420.745 | New |
| 420.750 | New |
| 420.760 | Amendment |
| 420.775 | New |
| 420.830 | Amendment |
| 420.1020 | Amendment |

4) Statutory Authority: 15 ILCS 310/10

5) The effective date of amendments: July 16, 2012

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, is on file in the agency's principal office and is available for public inspection.

9) Notices of Proposal Published in Illinois Register: March 9, 2012; 36 Ill. Reg. 3625

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

11) Differences between proposed and final version:

420.340 – Continuous Service
- In subsection 420.340(a)(1), the following has been struck: "g" and replaced with "f".

420.400 – Layoffs and Reemployment
- In subsection 420.400(g)(2), the following has been struck: "Where" and replaced with "When".

420.645 – Family Leave
- The following has been added after Family and Medical Leave Act: "of 1993 (29 USC 2601 et seq.)".
- The following has been added after Family Military Leave: "Act [820 ILCS 151] leave".
- The following has been struck: "that may be provided by law.".

420.705 – National Service Leave
- The following has been struck: "as amended".

420.745 – Blood/Organ/Tissue Donation Leave
- The following has been struck: "/1".

420.750 – School Visitation Leave
- The following has been struck: "/1 et seq., as amended".

420.760 – Non-service Connected and Service Connected Disability Leave
- In subsection 420.760(b)(3), the following has been struck: "(h)" and replaced with "(g)".

420.775 – Victims' Economic Security and Safety Leave
- The following has been added after Victims: " ' ".
- The following has been struck: "/1".

420.1020 – Prohibition of Discrimination
- In subsection 420.1020(a), the following has been struck: "law" and replaced with "the Illinois Human Rights Act [775 ILCS 5], the Civil Rights Act of 1964 (42 USC 2000(d) et seq.), the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.), the Genetic Information Nondiscrimination Act of 2008 (42 USC 2000(ff) et seq.), the Age Discrimination Act of 1967 (29 USC 621 et seq.), the Equal Pay Act of 1963 (29 USC 206 et seq.), or other State law or regulation".

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

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 this rulemaking? This rulemaking seeks to conform with current merit practices, regulations of federal and state legislative enactments and technical changes.

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

Stephan Roth or Linda Green
Office of the Secretary of State
Department of Personnel
Room 197 Howlett Building
Springfield, Illinois 62756

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND POSITION CLASSIFICATIONS
CHAPTER II: SECRETARY OF STATE

PART 420
DEPARTMENT OF PERSONNEL

SUBPART A: INTRODUCTION

Section
420.10 Definitions

SUBPART B: CLASSIFICATION AND PAY

Section
420.200 Positions
420.210 Position Classification
420.220 Pay Plan

SUBPART C: MERIT AND FITNESS

Section
420.300 Application and Examination
420.310 Appointment and Selection
420.320 Trainees
420.330 Intermittents
420.340 Continuous Service
420.350 Performance Evaluation Forms
420.360 Probationary Status
420.370 Promotions
420.380 Employee Transfers
420.390 Demotion
420.400 Layoffs and Reemployment
420.410 Voluntary Reduction
420.415 Sworn Personnel – Inter-Agency Assignment
420.420 Resignation and Reinstatement
420.430 Discipline, Discharge, and Termination
420.435 Return of State Property

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: CONDITIONS OF EMPLOYMENT

Section
420.600 Grievance Procedure
420.610 Sick Leave
420.620 Personal Leave
420.630 On-The-Job Injury – Industrial Disease (Repealed)
420.640 Leaves of Absence Without Pay
420.645 Family Leave
420.650 Limitations on Leaves of Absence
420.660 Leaves of Absence – Special
420.665 Leaves of Absence – Sworn Personnel – Inter-Agency Assignment
420.670 Leaves of Absence – Special – Salary (Repealed)
420.680 Employee Rights After Leave
420.690 Leave of Absence – Election to Public Office
420.700 Failure to Return from Leave of Absence
420.705 National Service Leave
420.710 Military ~~and Peace Corps~~ Leave
420.715 Disaster Services Leave with Pay
420.720 Leave for Annual Military Reserve Training or Special Duty
420.730 Leave for Military Physical Examinations
420.740 Leave to Take Exempt Position (Repealed)
420.745 Blood/Organ/Tissue Donation Leave
420.750 School Visitation Leave
420.760 Non-service Connected and Service Connected Disability Leave
420.770 Attendance in Court
420.775 Victims' Economic Security and Safety Leave
420.800 Vacation
420.810 Work Schedules
420.820 Overtime
420.825 Temporary Assignment (Repealed)
420.830 Holidays
420.835 Notification of Absence

SUBPART E: GENERAL PROVISIONS

Section
420.1000 Records

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

420.1010 Benefits
420.1015 Proration of Rights and Benefits
420.1020 Prohibition of Discrimination
420.1030 Other Provisions

AUTHORITY: Implementing and authorized by Section 10 of the Secretary of State Merit Employment Code [15 ILCS 310/10].

SOURCE: Emergency rule adopted December 29, 1977; amended at 3 Ill. Reg. 49, p. 159, effective October 1, 1979; amended at 4 Ill. Reg. 40, p. 219, effective December 1, 1980; amended at 6 Ill. Reg. 3302, effective March 16, 1982; amended at 6 Ill. Reg. 7494, effective June 16, 1982; amended at 7 Ill. Reg. 11526, effective September 7, 1983; codified at 8 Ill. Reg. 2653; recodified at 10 Ill. Reg. 15659; amended at 12 Ill. Reg. 6766, effective April 1, 1988; amended at 17 Ill. Reg. 1652, effective February 1, 1993; emergency amendment at 21 Ill. Reg. 1710, effective January 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5937, effective April 24, 1997; emergency amendment at 27 Ill. Reg. 18259, effective November 17, 2003, for a maximum of 150 days; emergency expired April 14, 2004; amended at 28 Ill. Reg. 7676, effective May 24, 2004; emergency amendment at 32 Ill. Reg. 3013, effective February 13, 2008, for a maximum of 150 days; emergency amendment repealed at 32 Ill. Reg. 6659, effective April 2, 2008; amended at 32 Ill. Reg. 15017, effective September 8, 2008; amended at 35 Ill. Reg. 4278, effective March 1, 2011; amended at 36 Ill. Reg. 12125, effective July 16, 2012.

SUBPART A: INTRODUCTION

**Section 420.10 Definitions**

"Allocation": The assignment of a position to a class based on duties, responsibilities and requirements.

"Appropriate Supervisor": An employee who has the authority to resolve an employee's grievance.

"Certified Employee": An employee who has successfully completed a required probationary period and attained certified status during the employee's most recent period of continuous service.

"Certified Status": Status achieved through the completion of a probationary period.

"Class": A composite of positions that are sufficiently similar, in terms of duties and responsibilities, requiring the same or related knowledge, skills, abilities and

licenses (if required) to fulfill them, and the same title, selection instrument, salary range or rate of pay that would apply equitably to each. Example: All Executive I positions in the Office of the Secretary of State are a class.

"Code": The Secretary of State Merit Employment Code [15 ILCS 310].

"Commission": The Secretary of State Merit Commission.

"Continuous Service": The uninterrupted period of service from the date of original appointment to State service.

"Department of Personnel": The Secretary of State Department of Personnel.

"Director of Personnel": The Director of the Secretary of State Department of Personnel.

"Employee": Any employee on the payroll as well as any employee on a leave of absence granted pursuant to this Part.

"Executive or Administrative Employee": Those employees who have principal administrative responsibility for the determination of policy or principal administrative responsibility for the way in which policies are carried out.

"Executive Security Officer": A law enforcement officer charged with executive protective duties.

"Highly Confidential Employee": An employee who occupies a position that, by its nature, is entrusted with private, restricted or privileged information of a type that would preclude its being subject to Jurisdiction B.

"Immediate Family": Father, mother, brother, sister, son, daughter, ~~and~~ spouse or party to a civil union, including adoptive and custodial relationships and "in-laws".

"Jurisdiction A": The Section of the Code that deals with the classification and compensation of positions in the Office of the Secretary of State.

"Jurisdiction B": The Section of the Code that deals with merit and fitness as it applies to positions in the Office of the Secretary of State.

"Jurisdiction C": The Section of the Code that deals with the conditions of employment of positions of the Office of the Secretary of State.

"Licensed Attorney": Attorneys who are licensed to practice law within the State of Illinois.

"Next Higher Supervisor": An employee who is authorized to adjust grievance resolutions offered by an Appropriate Supervisor; an employee who may be locally or regionally assigned to resolve Level 2 grievances.

"Organizational Entity": An organization whose chief executive officer reports directly to the Secretary of State or the Assistant Secretary of State.

"Pay Plan": The plan, authorized by the Secretary of State Merit Employment Code, that sets forth rules for salary treatment when processing personnel transactions and other compensation actions and identifies the various salary schedules.

"Pay Status": An employee who is active on the payroll of the Office of the Secretary of State and who receives wages for hours worked, paid holidays and benefit time used.

"Position": A set of duties, authorities and responsibilities.

"Position Description": The official document that identifies the duties, responsibilities, location and reporting relationships of a position.

"Probationary Period": A period of six calendar months (or 979 hours) immediately following an original appointment or reinstatement, or a period of three months (489.5 hours) following a promotion.

"Series": A class series is composed of two or more individual classes that are directly related in type of work performed, responsibility exercised and

background experience required, while differing in levels, difficulty and/or achievement of these same terms. The classes of a series are similar in title and are usually sequential in nature from lowest to highest. Example: Executive I, II, III, IV and V are a class series.

"Sworn Personnel – Inter-Agency Assignment": Employees of the Office, vested with police authority, who are assigned to an affiliated outside organization for a determined time frame to perform police officer duties.

"Time of Hostilities": Any period of time during which a declaration of war by the United States Congress has been or is in effect or is recognized by the issuance of a Presidential Proclamation or Executive Order as defined in Section 10b.7 of the Secretary of State Merit Employment Code [15 ILCS 310/10b.7].

"Title": A title is the name by which a class is known. Example: Executive I is a title.

"Unskilled Positions": Positions whose primary requirement is that incumbents be of good physical condition.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

SUBPART C: MERIT AND FITNESS

**Section 420.320 Trainees**

a) Trainee Appointments: The Director of Personnel may establish trainee or apprenticeship programs for new and/or incumbent employees in accordance with the Position Classification Plan (80 Ill. Adm. Code 410) or at the request of an operating department. No trainee position under this Section shall be established in any class other than a trainee class. A trainee or apprenticeship program shall prescribe the purposes, objectives, curriculum, benefits and duration. Trainee or apprenticeship programs may be established for one or more of the following reasons and purposes and shall be for the duration stated in the class specifications:

1) To develop qualified employees through an established program of supervised training and experience;

2) To cooperate with recognized educational institutions and organizations by making available opportunities for supervised training and work experience required for satisfactory completion of a cooperative or affiliate training program;

3) To provide specialized orientation and training necessary for satisfactory performance of jobs in technical or professional fields;

4) To attract and interest better qualified employees to State service by selecting outstanding persons and giving them supervised work experience during their period of academic training;

5) In conjunction with Section 18c of the Secretary of State Merit Employment Code [15 ILCS 310/18c], to provide training or developmental work experience for persons with disabilities that would assist them in acquiring or augmenting employment skills and/or to provide employment opportunities of limited duration.

b) Limitations on Trainee Appointments:

1) Trainees appointed to a position in a trainee class after having qualified by open competitive examination in accordance with Section 420.300 may be promoted after successfully completing the prescribed trainee program and meeting the minimum education and experience requirements for the title for which they are training. A 3 month probationary period will be served in accordance with Section 420.360(a)(2).

2) Trainees appointed without open competitive examination may be promoted to the titles for which they are training after successfully completing the prescribed trainee program and ranking among candidates in a reachable position for appointment on the appropriate open competitive eligible list. A 3 month probationary period will be served in accordance with Section 420.360(a)(2).

3) Trainees appointed to a trainee position without open competitive examination, whose positions are reallocated or reclassified to a non-trainee class during the trainee period, will be placed in provisional status in the class to which the position is allocated and shall establish eligibility for that position upon successful completion of an appropriate open

competitive examination within 6 months from the effective date of the title change.

4) Trainees appointed to a trainee position after having qualified by open competitive examination in accordance with Section 420.300, whose positions are reallocated or reclassified to a non-trainee class during the trainee period, will be placed in probationary status in the class to which the position was allocated and will serve a 6 month probationary period.

5) Employee absences from work during a trainee period may, if necessary, extend the length of the trainee period by the length of the absences. If the trainee period is extended by absence due to suspension and the suspension is later reduced or rescinded, the time shall not extend the trainee period. The department may verify to the Director of Personnel that the employee satisfied the requirements of the trainee program, notwithstanding any absences during the trainee period. In no event is the trainee period to be extended beyond that allowed on the class specification for the trainee class. For purposes of this subsection (b)(5), a 12 month period shall be equal to 261 work days.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.340 Continuous Service**

a) Definition:

1) Continuous service is the uninterrupted period of service from the date of original appointment to State service or to service in any other system participating in the Retirement Systems Reciprocal Act [40 ILCS 5/20], except as provided in subsection (f~~g~~).

2) Employees who have accrued continuous service in State service or who have accrued continuous service in a position covered by the Retirement Systems Reciprocal Act, and who have been transferred to or who have accepted an appointment to a position in the Office of the Secretary of State, shall be given credit for the earlier service to the extent determined by the Director of Personnel or required by law.

3) Intermittent and permanent part-time employees shall accrue continuous

service on a prorated basis, determined by the number of hours worked per year.

b) Interruptions in Continuous Service: Continuous service shall be interrupted by:

1) Resignation; provided, however, that continuous service will not be interrupted by resignation when an employee is employed in another position in State service within 4 calendar days after resignation;

2) Discharge; provided, however, that continuous service shall not be interrupted if the employee is retained in the position after a hearing before the Merit Commission, or under other administrative review process, or by the court;

3) Termination because an employee has not been reemployed within one year after layoff.

c) Deductions from Continuous Service: Except as provided in subsection (~~e~~f), the following shall be deducted from, but not interrupt, continuous service:

1) Time away from work for leaves of absence without pay totaling more than 30 days in any 12 month period;

2) Time away from work because of disciplinary suspensions totaling more than 30 days in any 12 month period;

3) Time away from work because of layoff.

d) Veterans' Continuous Service:

1) Leaves of absence shall be granted to all employees, except temporary or emergency employees, who leave their positions and enter military service for 4 years or less (exclusive of any additional service imposed pursuant to law). An employee shall be restored to the same or similar position on making an application to the Department of Personnel within 90 days after separation from active duty, or after release from hospitalization continuing after discharge but for not more than one year. The employee must provide evidence of satisfactory completion of training and military service when making application and must be qualified to perform the

duties of the position.

2) Subject to the provisions of Section 420.310(f), a veteran who returns to service with the Office of the Secretary of State after having been granted a leave of absence from provisional status shall be required to pass the same or similar examination for his/her position within 90 days.

3) Trainees who have not previously done so and whose training was interrupted by military leave shall be required to qualify, if necessary, in an examination in the trainee class before granted allocation or noncompetitive promotion to a higher class.

~~e) Peace or Job Corps Enrollees Continuous Service: Employees who volunteer and are accepted for service in the overseas or domestic peace or job corps shall be given a leave of absence from their position for the duration of their initial period of service and restored to the same or similar position provided that the employee returns to employment within 90 days after termination of service or release from hospitalization from a service connected disability.~~

e)~~f)~~ Accrual and Retention of Continuous Service During Certain Leaves: During an educational, military, national service~~peace or job corps~~, disaster services, family leave (pursuant to Section 420.645), Family and Medical Leave (FMLA), disability leave, service connected disability leave or leave to accept a temporary, provisional, or emergency assignment in another class, an employee shall retain and accrue continuous service, provided an appropriate application to return is made pursuant to the requirements specified elsewhere in this Part.

f)~~g)~~ Limitation on Continuous Service: Temporary and emergency employees employed after May 24, 1977 shall not accumulate continuous service except as provided in the State Employee Vacation Time Act [5 ILCS 360], unless the status is acquired as the result of taking a leave of absence to accept a temporary or emergency assignment.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.400 Layoffs and Reemployment**

a) For purposes of layoff and reemployment, Secretary of State continuous service shall mean the period of uninterrupted service from the date of entry into service

with the Office of the Secretary of State, whether by appointment or transfer.

b)~~a)~~ Layoff Procedure:

1) A department may request the layoff of an employee because of lack of funds, material change in duties or organization, or lack of work, or the abolition of a position for any of these reasons. Based on class, department, county or other designation, layoffs shall be within organizational units justified by operations and approved prior to the layoff by the Director of Personnel.

2) Based on class, department, county or other designation, layoffs shall be within organizational units justified by operations and approved prior to the layoff by the Director of Personnel. Within selected designations and organizational units, employees will be laid off in order of length of Secretary of State continuous service.

3)~~2)~~ A proposed layoff is subject to the approval of the Director~~Department~~ of Personnel before becoming effective and shall include the following in the organizational unit in which the layoff is proposed:

A) A list of all employees in the selected designation and organizational unit showing status and total Secretary of State continuous service;

B) A listing of the employees to be laid off;

C) An explanation of any layoff not in order of Secretary of State continuous service;

D) An explanation of the organizational unit selected, identifying the department, division, facility, geographical location, operational needs and other elements deemed relevant by the department director.

c)~~b)~~ Order of Layoff:

1) The following order shall be observed in implementing layoffs:

A) No certified or probationary employee may be laid off until all temporary, emergency, provisional, trainee and exempt employees in the same class and organizational unit are terminated;

B) No certified employee may be laid off until all probationary employees in the same class and organizational unit are terminated.

2) Within status groups and in accordance with the layoff plan submitted under subsection (b)~~(a)~~, consideration shall be given to performance records and Secretary of State continuous service~~ as defined in Section 420.340(a)~~.

3) For purposes of this Section, "certified employee" shall mean any employee who has satisfactorily completed a required period of probation and/or attained certified status in any position during the employee's current period of continuous service.

d)~~c)~~ Effective Date of Layoff: Unless extraordinary operating conditions or events are specified in the proposed layoff plan, no layoff shall be effective until 10 working days after the Director of Personnel's approval of the layoff plan.

e)~~d)~~ Disapproval: The Director of Personnel may disapprove or modify any layoff plan that results in a disproportionate impact on any protected class, as defined by federal civil rights laws, judicial decisions and the Illinois Human Rights Act [775 ILCS 5], within the layoff unit.

f)~~e)~~ Notice of layoff to the affected employee shall be given within a reasonable time period after approval of the layoff plan by the Director of Personnel.

g)~~f)~~ Reemployment Lists:

1) The Director of Personnel shall, before the effective date of layoff, approve and establish a reemployment list, by class and department and designated geographical area. A certified employee who has been laid off shall be placed in order of length of Secretary of State continuous service ~~as defined in Section 420.340(a)~~ on a reemployment list for recall to the first available assignment to a position in the class and department and designated geographical location or area in which the employee was assigned prior to being placed on the reemployment list.

2) When~~Where~~ circumstances warrant, at the discretion of the Director of Personnel, the reemployment list may be established by related classes whose duties are substantially similar to the class from which the employee was laid off.

3) An employee whose name has been placed on the reemployment list will also be eligible for reinstatement in accordance with Section 420.420(b).

h)~~g)~~ Employment from Reemployment List: Whenever there is any person available on a reemployment list for recall to a vacant position for the same class, department and geographical area, no permanent position may be filled by any of the following means:

1) By probationary appointment from the appropriate open competitive list;

2) By provisional appointment;

3) By promotion of a certified employee or a probationary employee who has been certified during the current period of continuous service by a qualifying examination;

4) By reinstatement of a former certified employee;

5) By transfer; or

6) By voluntary reduction, except by an employee on the reemployment list, and only if there are no employees on the reemployment list for the same class, department and designated geographical area.

i)~~h)~~ Removal of Names from Reemployment List:

1) A laid off employee's name shall be removed from the reemployment list when:

A) The employee is recalled from layoff;

B) The employee refuses an offer of permanent reemployment;

C) The employee's name has remained on the reemployment list for 12 months; or

D) The employee has been reinstated in accordance with Section 420.420(b).

2) Offers of temporary or emergency appointment shall not be considered as recall or reinstatement.

j)~~i)~~ Laid Off Probationary Employee:

1) The name of a probationary employee who is terminated as a result of layoff before the completion of the probationary period shall be returned to the eligible list with the same grade as when appointed, for the remainder of his/her one year eligibility.

2) An employee serving a probationary period but otherwise certified as defined in subsection (c~~b~~)(3), who is to be laid off, shall be given notice and may request a voluntary reduction pursuant to Section 420.410(a) and (c). If no voluntary reduction is effected, the employee will be laid off and the employee's name placed on the reemployment list in order of continuous service for the department, work location and title in which last certified.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.420 Resignation and Reinstatement**

a) Resignation: An employee who voluntarily leaves the Office of the Secretary of State shall, except in emergency circumstances approved by the department director, give advance notice of intent not less than 15 calendar days before the departure's effective date. Once a resignation has been submitted by the employee, and accepted by the employing department director or by the Department of Personnel, the resignation shall not be revoked unless the revocation is requested by the employee and the revocation is approved by the employing department director and the Director of Personnel. Resignation in good standing shall mean that the employee gave the required notice or that the emergency circumstances justified failure to do so, and that the employee's conduct and work performance were satisfactory at the effective date of the

resignation.

b) Reinstatement:

1) The Director of Personnel may reinstate an employee who was formerly certified under the Secretary of State Merit Employment Code and who resigned or terminated in good standing or whose name was placed on a reemployment list. The reinstatement may be to a position in the class to which the employee was assigned prior to resignation, termination, downward allocation, transfer or layoff or to an equivalent or lower position in a related series. The Director of Personnel may reinstate an employee who was formerly certified under a merit system, including the Personnel Code, the State Universities Civil Service Act, the State Treasurer Employment Code or the Comptroller Merit Employment Code. A reinstated employee shall serve an additional 6 months probationary period in the position. Requests for reinstatement shall be accompanied by the employee's performance records when available.

2) A certified employee whose name appears on a reemployment list may be reinstated to a position other than a~~the~~ position to which the employee is eligible for reemployment. ~~If reinstated to a position in the same or a higher pay grade than that for which the employee is eligible for reemployment, upon satisfactory completion of the new probationary period, the employee's name shall be removed from the reemployment list.~~ Reinstatement to a position in a lower pay grade than that for which the employee is eligible for reemployment shall have no effect on the employee's reemployment rights. Reinstatement to an equal or higher position than that for which the employee is eligible for reemployment shall result in removal of the employee's name from the reemployment list upon satisfactory completion of the new probationary period.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.430 Discipline, Discharge, and Termination**

a) Progressive Corrective Discipline: Employees shall be subject to corrective discipline progressively utilizing counseling, warnings and/or suspensions, as the facts and circumstances dictate, prior to discharge, unless the facts and circumstances warrant immediate discharge or suspension. If an employee's work

or work-related conduct remains unacceptable after the application of progressive corrective discipline, the employee may be discharged in accordance with the appropriate following subsections.

b) Discipline − Warning Notices: A department director or designee may issue a warning notice as a disciplinary measure. A copy of any warning notice shall be placed in the employee's official personnel file and may be used in considering further discipline, demotion, withholding of salary increases and other personnel transactions. Any notice given shall bear the signature of the issuing official.

c) Disciplinary Suspensions: Written statements of reason for disciplinary suspensions without pay totaling not more than 30 calendar days in any 12 month period shall be filed by a department director or other administrative authority with the Director of Personnel or designee in the form and manner prescribed. If the employee is certified, and subject to suspensions totaling more than 30 calendar days in any 12 month period, the department director or administrative authority shall file written charges for such suspension with the Director of Personnel or designee in the form and manner prescribed in the Merit Commission Rules (80 Ill. Adm. Code 50). Before a disciplinary suspension shall be effective, a signed request containing a clear and concise statement of facts showing good cause to suspend the employee shall be approved by the Director of Personnel. The employee shall be informed in writing of the charges prior to the effective date of the proposed suspension and be provided with a reasonable summary of the evidence. The employee shall have 4 working days after being informed of the proposed suspension within which to address to the department director or designee written rebuttal of the reasons given for the suspension. A decision not to suspend the employee or to reduce the suspension shall be rendered in writing to the employee and filed with the Director of Personnel. Notice of such suspension imposed must also be filed immediately with the Director of Personnel. If delay in the imposition of discipline will result in clear harm or damage to a department, the employee may be suspended prior to the review by the Director of Personnel.

d) Suspension Pending Decision on Discharge: A department may suspend an employee, without pay, for up to 30 days pending the decision of the operating department as to whether charges for discharge shall be filed against the employee. The department shall, at the time of the suspension, provide the employee with written reasons for the suspension in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel

file. Notice of suspension must also be filed immediately with the Director of Personnel. The department shall thereafter promptly investigate the facts and circumstances and render its decision. Should the department determine that the facts and circumstances do not warrant disciplinary suspension or charges for discharge, the employee shall be made whole. Should the department determine that a disciplinary suspension is appropriate, subsection (c) shall apply in its entirety. Should the department determine that discharge of the employee is appropriate, subsection (f) shall apply in its entirety.

e) Definition of Day for Suspension Purposes: A day, for purposes of suspension, shall be defined as 7.5 hours, predicated on a 37.5 hour work week, unless the employee is in a position requiring a 40 hour week, in which case the day shall be 8.0 hours. Intermittent and permanent part-time employees' day for purposes of suspension shall be prorated based on their work schedule.

f) Discharge of Certified Employee:

1) Discharge of a certified employee may be initiated by a department director or other administrative authority by filing written charges for discharge with the Director of Personnel in the form and manner prescribed by the Director of Personnel, as specified in the Merit Commission Rules. Written charges shall contain a clear and concise statement of facts showing good cause for discharge and other supporting documentation, if applicable. No discharge of a certified employee shall be effective without the approval of the written charges for discharge by the Director of Personnel or designee.

2) Before a discharge shall be effective, the certified employee shall receive a written copy of the charges and a copy of a reasonable summary of the evidence designed to give the employee sufficient information to respond to the charges against him or her, and have at least 4 working days within which to respond to the charges with reasons and evidence why discharge should not occur. The certified employee's response, which should include matters in defense and/or mitigation, shall be presented to the Director of Personnel in writing before 4:30 p.m. on the fourth working day after the certified employee has received notice of the proposed discharge, counting the day of service as the first day. The certified employee shall be suspended pending discharge for these four working days, and shall remain suspended until a final decision on discharge shall

be made. These 4 working days shall not increase the maximum suspension periods allowed pursuant to subsection (c). If the Director of Personnel has attempted service on the individual through mail or other carrier service and personal delivery and yet is unable to make service on the individual, the Director of Personnel may file a motion with the Secretary of State Merit Commission seeking a determination that service has been accomplished through due diligence. The motion may be filed any time after 30 days have lapsed from the date service is first attempted on the individual. Service of the motion on the individual shall be by regular mail at the individual's last known address. The motion shall set forth the actions of the Secretary of State's Office with respect to service on the individual. A hearing shall be scheduled within 10 days after the filing of the motion. An order shall be entered at the conclusion of the hearing. If due diligence is shown, an order shall be entered stating that service has been attempted and accomplished for purposes of this subsection. The time period for the individual to appeal the dismissal with the Merit Commission begins on the date of the order.

3) After receipt of the certified employee's response to the proposed discharge, the Director of Personnel or designee shall carefully consider all matters submitted by the employee. The Director of Personnel or designee may consult with the employing department director before a final decision on discharge is made. The Director of Personnel or designee shall make a decision within a reasonable time. If more than 10 working days is required, the employee shall be notified in writing by hand delivery, by certified mail, return receipt requested, by courier, or by process server. The final notice of discharge shall contain a statement that the response of the certified employee was considered before a final decision was made, or that no response was submitted. The procedures of subsections (f)(1) and (g) shall then apply.

g) Notice to Employee: Notice of approved charges for any disciplinary suspension or approved charges for discharge shall be served on the employee, by hand delivery by Secretary of State personnel, by certified mail, return receipt requested, by courier, or by process server at the employee's last address appearing in the official personnel file. The notice shall also identify the employee's responsibility to return to the supervisor any items furnished the employee by the Office of the Secretary of State, including any Secretary of State identification, uniforms, keys, supplies, tools or property, and to leave the place of

employment as of the effective date of the suspension or discharge pursuant to Section 420.435.

h) Employee Obligations: Upon receipt by the employee of charges for discharge, the employee shall return to the supervisor any items belonging to the State, pursuant to Section 420.435 and leave the place of employment. The director of the employing department shall take action to insure compliance.

i) Appeal by Employee: A certified employee who has been served with approved charges for suspension totaling more than 30 calendar days in a 12 month period or approved charges for discharge may make a written request to the Merit Commission for hearing of those charges within 15 calendar days of receipt of written charges.

j) Discharge or Suspension of Probationary Employee: Discharge or suspension of a probationary employee may be initiated by filing written charges with the Director of Personnel in the form and manner prescribed by the Director of Personnel. Written charges shall contain a clear and concise statement of facts showing good cause for suspension or discharge and other supporting documentation if applicable. No suspension or discharge of a probationary employee shall be effective without the approval of the written charges by the Director of Personnel or designee.

k) Reinstatement from Suspension or Discharge: An employee who is reinstated following a period of suspension or discharge shall receive full compensation for that period. Full compensation shall represent total pay, with any vacation and sick leave benefits the suspended or discharged employee would have earned in the position classification during the period of suspension or discharge, less amounts earned by the employee from any other source, and unemployment compensation payments received during the period.

l) Suspension or Discharge Resulting from Arrest and/or Criminal Indictment:

1) The arrest or criminal indictment of any employee shall not be grounds for suspension or discharge. However, the facts of an arrest or criminal indictment made known to the Director of Personnel may be grounds for suspension or discharge if they meet one or more of the following criteria:

A) Resulted from an employee's conduct in the course of employment;

B) Occurred on or proximate to State premises and as a result of the employee's conduct, including conduct that may have violated standards of conduct; or

C) Raises reasonable doubt concerning the employee's suitability for continued State employment in the present assignment or position based upon the severity and nature of the offense.

2) If an employee is not subject to suspension or discharge under this Section, the Director of Personnel or designee may, depending upon the needs of the office or at the request of the employee, place the employee on indefinite leave status, without pay, pending a final court determination of innocence or guilt in accordance with Section 420.660.

m) Termination of Noncertified Employee: No noncertified employee may be terminated without prior approval of the Director of Personnel. The noncertified employee has no recourse with this Part or the Merit Commission.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

SUBPART D: CONDITIONS OF EMPLOYMENT

**Section 420.610 Sick Leave**

a) Sick Leave Definition: All employees, except those in emergency, permanent part-time, intermittent, per diem, or temporary status, unless the~~that~~ status is the result of accepting a nonpermanent working assignment in another class, shall accumulate sick leave at the rate of one day for each month's service. Intermittent and permanent part-time employees shall accrue sick time on a prorated hourly basis determined by a ratio, the numerator of which shall be number of hours in pay status each month and the denominator of which shall be the number of normal work hours that month.

b) Accumulation of Sick Leave: Employees shall be allowed to carry over from year to year of continuous service any unused sick leave. An employee shall retain any unused sick leave accumulated prior to December 1, 1980.

c) Reinstatement of Sick Leave:

1) On or after the effective date of this Section, accumulated sick leave available at the time an employee's continuous service is interrupted shall, upon verification, be reinstated to the employee's account upon return to full-time, regularly scheduled part-time, or intermittent employment, except in temporary or emergency status. This reinstatement is applicable provided the interruption of service occurred not more than 5 years prior to the date the employee reenters service and provided the sick leave has not been credited by the appropriate retirement system towards retirement benefits.

2) An employee with previous service for which sick leave was granted under provisions other than Jurisdiction C of the ~~Secretary of State Merit Employment~~ Code shall have the~~that~~ sick leave reinstated to the extent provided under this Section.

d) Advancement of Sick Leave: An employee with more than 2 years continuous service whose personnel records warrant it may be advanced sick leave with pay for not more than 10 working days, with the written approval of the department and the Director of Personnel. Advances will be charged against sick leave accumulated later in subsequent service. No additional advance of sick time will be made until all previously advanced time is repaid.

e) Use of Sick Leave:

1) Sick leave shall be used in the following order:

A) Sick leave granted prior to January 1, 1984 will be used first;

B) Sick leave granted beginning January 1, 1998 will be used second;

C) Sick Leave granted from January 1, 1984 through December 31, 1997 will be used last.

2) Sick leave may not be used in increments of less than ½ hour at a time, but in conjunction with the first ½ hour may be taken in additional 15-minute increments. Permanent part-time and intermittent employees may use sick time in 15-minute increments.

3) Sick leave may be used for illness, disability or injury of the employee or appointments with doctor, dentist or other professional medical practitioner, and also may be used for not more than 30 days in one calendar year in the event of serious illness, disability, injury, or death of a member of the employee's immediate family, unless such time is used pursuant to the Family Medical Leave Act (29 USC 2601 et seq.).

4) The employing department or the Department of Personnel shall, when there is apparent abuse, require evidence to substantiate that sick leave days were used for the purposes set forth in subsection (e)(3). For periods of absence of more than 5 consecutive workdays, the employee shall provide verification for the absence in accordance with the provisions of Section 420.760(b)(4).

5) Employees may be granted up to 3 days (a day being equal to his/her actual workday) of paid leave time, in addition to the use of sick time allowed in subsection (e)(3), to attend services and related events and make necessary arrangements upon the death of a member of his/her immediate family. For purposes of this subsection (e)(5), immediate family includes father/step-father, mother/step-mother, brother/step-brother, sister/step-sister, son/step-son, daughter/step-daughter, spouse, domestic partner, party to a civil union, child (including adopted, custodial or in-law), grandparent, grandchild, parent-in-law, brother or sister-in-law, niece, nephew, aunt and uncle. The employee may be required to provide documentation as to the necessity for absences covered by this subsection (e)(5).

f) Payment in Lieu of Sick Leave:

1) Unless otherwise provided by law, upon separation of employment by means of resignation, retirement, death, indeterminate layoff, or discharge, and if the employee is not employed in another position in State service within 4 calendar days of the separation, an employee is entitled to be paid for unused sick leave which accrued on or after January 1, 1984 and prior to January 1, 1998 in accordance with subsection (e)(3).

2) The amount of sick leave to be paid upon termination of employment will be determined as follows:

A) using time records from the employing department, the Department of Personnel will verify the employee's sick leave balance for sick leave earned, but not taken, in the period from January 1, 1984 up to and including December 31, 1997;

B) the employees will be paid one-half of the amount of sick leave days determined in subsection (e)(2)(A), multiplied by the daily salary rate in effect at the time of separation.

3) The method for computing the hourly or daily salary rate for sick leave qualifying for lump sum payment upon separation of employment shall be determined by Payroll.

4) If an employee has a negative sick leave balance pursuant to subsection (d) when employment is separated, the employing department must submit this negative sick leave balance to Payroll, where one of the following will be applied:

A) Subtract the negative sick leave balance from the earning amount still due to the employee by the Secretary of State.

B) Contact employing department, stating dollar amount of overpayment to employee. The employing department then has the responsibility of contacting the employee regarding the dollar amount due to the Secretary of State, payable by personal check or money order.

C) If no repayment occurs, Payroll will establish a lien against any State of Illinois monetary payment due to the employee through the Comptroller for the negative sick leave balance owed to the Secretary of State.

5) An employee who is reemployed, reinstated or recalled from indeterminate layoff and who received lump sum payment in lieu of unused sick days will have the days restored by doing the following:

A) The employee must notify the employing department to request restoration of the~~,~~ previously paid unused sick days ~~are to be~~

~~restored~~ to the employee's sick leave account; and

B) The employee must repay the gross (total) amount paid by the State (before deductions) to the Secretary of State by personal check or money order. The employing department will forward the employee's repayment to Payroll before unused sick days are returned to the employee's sick leave account.

g) Pursuant to the Secretary of State Merit Employment Code [15 ILCS 310/10b.18], an employee who is also a veteran shall be permitted 2 days with pay per year to visit a veterans hospital for examination of a military service connected disability. Upon submitting proof of the visit, the 2 days shall not be charged against any sick leave currently available to the employee.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.630 On-The-Job Injury – Industrial Disease (Repealed)**

~~An employee who suffers an on-the-job injury or who contracts a service-connected disease shall be allowed full pay for 3 working days of absence without utilization of any accumulated sick leave or other benefits, if a worker's compensation claim is filed and approved. Thereafter, the employee shall be permitted to utilize accumulated sick leave or other benefit leave time unless the employee has applied for and been granted temporary, total disability benefits in lieu of salary or wages pursuant to provisions of the Workers' Compensation Act [820 ILCS 305] or has been granted a disability leave of absence in accordance with Section 420.760. Up to 12 weeks of leave time in a 12 month period may be designated as FMLA leave time under the Family & Medical Leave Act and will run concurrently with worker's compensation leave provided the absence is due to a qualifying serious injury or illness. An employee who returns from a service connected disability leave shall be returned to the same or similar position in the same class in which the employee was incumbent at the time the leave commenced. In the event the service connected injury or illness becomes the subject of payment of benefits provided in the Workers' Compensation Act by the Illinois Workers' Compensation Commission, the employee shall restore to the State the payment received as sick leave or other accumulated benefit leave time and the employee's leave account shall be credited with leave time equivalents.~~

(Source: Repealed at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.645 Family Leave**

This leave of absence shall be considered separate and apart from the Family and Medical Leave Act of 1993 (29 USC 2601 et seq.) leave and Family Military Leave Act [820 ILCS 151] leave ~~that may be provided by law~~. When FMLA does not apply or the employee does not qualify under FMLA, an employee may request a family leave for the adoption of a child or for parental reasons or other family emergencies. This leave can endure from one to 90 calendar days without pay and without deduction of continuous service. If requested and approved by the employing department, an additional 90 days will be allowed. However, the subsequent 90 to 180 calendar days will be deducted from continuous service. This leave may be utilized, if requested and with prior approval by the employing department and the Department of Personnel, for additional leave after a disability leave for maternity purposes. An employee who returns from a family leave shall have the rights set forth in Section 420.680.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.650 Limitations on Leaves of Absence**

No emergency or temporary employee shall be granted leaves of absence except as provided in Section 420.760(g)~~630~~ (on-the-job injury or illness) and Section 420.760(e~~f~~) (disability).

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.680 Employee Rights After Leave**

a) When an employee returns from a leave of absence of 6 months or less, the department shall return the employee to the same or similar position in the class in which the employee was incumbent prior to the commencement of the leave.

b) Except for those leaves granted under Sections ~~420.630,~~ 420.665, 420.705, ~~or~~ 420.710 or 420.760(g) and when an employee returns from a leave or leaves exceeding 6 months and there is no vacant position available to the employee in the same class in which the employee was incumbent prior to the leave or leaves commencing, the employee may be laid off without consideration of continuous service and, if laid off, the employee's name shall be placed on the reemployment list.

c) Except for those leaves granted under Sections 420.665, 420.690 or 420.710, an employee shall resign his/her employment or be terminated from employment once he/she has been continuously out on leave of absence for 2 calendar years.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.705 National Service Leave**

a) An employee who volunteers and is accepted for service, pursuant to the National Community Service Trust Act of 1993 (42 USC 12501 et seq.) in the overseas or domestic Peace Corps, Job Corps, AmeriCorps VISTA, or other equivalent national service program shall be given a leave of absence from his/her position for the duration of the service.

b) Prior to granting a National Service Leave, an employee must provide acceptable documentation from the service agency as to the type and dates of service.

c) Upon return from a National Service Leave, an employee shall be restored to the same or similar position, provided that the employee returns to employment within 90 days after termination of the service or release from hospitalization resulting from a disability incurred during the service.

(Source: Added at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.710 Military ~~and Peace Corps~~ Leave**

a) Leaves of absence shall be granted to all employees, except temporary or emergency employees, who leave their positions and enter military service for 4 years or less, or as may be required by law.

b) Upon return from military leave, the employee shall be restored to the same or similar position on making an application to the Director of Personnel within 90 days after separation from active duty, or after release from hospitalization continuing after discharge but for not more than one year. The employee must provide evidence of satisfactory completion of training and military service when making application and must be qualified to perform the duties of the position.

c) Subject to the provisions of Section 420.310(f), a veteran who returns to service with the Office of the Secretary of State after having been granted a military leave of absence from provisional status shall be required to pass the same or similar examination for his/her position within the remaining balance of the 6 month provisional period or 90 days, whichever is greater.

~~Leaves of absence shall be allowed employees who enter military service or the peace or job corps as provided in Section 420.340 (d) and (e) and as may be required by law.~~

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.745 Blood/Organ/Tissue Donation Leave**

In accordance with the Organ Donor Leave Act [5 ILCS 327], a permanent full-time, part-time or intermittent employee who has been employed with the Office of the Secretary of State for at least 6 months, with approval of the employing department, will be granted paid leave to donate an organ, bone marrow, blood or blood platelets under the following conditions:

a) Up to 30 days in a 12 month period to serve as an organ or bone marrow donor. In order to be granted paid leave for organ or bone marrow donation, proper medical leave paperwork must be completed in advance of the leave. Paid leave time does not apply to time off taken for the purpose of preliminary compatibility testing and/or screening for organ or bone marrow transplant.

b) Up to 1 hour in a 56 day period to donate or attempt to donate blood, with prior approval from the immediate supervisor and proof of donation provided.

c) Up to 2 hours or more, if necessary, to donate blood platelets in accordance with appropriate medical standards established by the Red Cross or other nationally-recognized standards, with prior approval from the immediate supervisor and proof of donation provided. Blood platelet donation may not be granted more than 24 times in a 12 month period.

d) An employee will not be required to use accumulated benefit time before becoming eligible for a Blood/Organ/Tissue Donation Leave.

(Source: Added at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.750 School Visitation Leave**

Pursuant to the School Visitation Rights Act [820 ILCS 147], an employee with no other available Personal Leave, Vacation Leave, Compensatory Time, or Holiday Compensatory Time shall be granted up to 8 hours of time off without loss of pay or benefits during the school year to visit a dependent child's school for parent-teacher meetings or at the special request of the school authorities. Except in documented extenuating circumstances, an employee must request the time off

at least 3 working days in advance. The employee must provide documentation from school authorities indicating the leave time was used for the purpose intended.

(Source: Added at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.760 Non-service Connected and Service Connected Disability Leave**

a) Employees who are unable to perform a substantial portion of their regularly assigned duties due to temporary physical or mental disability shall, upon request, or approval of a claim under the Workers' Compensation Act [820 ILCS 305], be granted a non-service or service-connected disability leave for the duration of the disability. A substantial portion of regularly assigned duties shall be those duties or responsibilities normally performed by the employee that constitute a significant portion of the employee's time or that constitute the factors differentiating that particular position from other positions, provided the balance of the duties can be reassigned by the department.~~Up to 12 weeks out of any 12 month period for a disability leave may be concurrently designated under FMLA.~~

b) In granting the~~this~~ leave~~ or use of sick leave as provided in Section 420.610~~, the Director of Personnel~~department~~ shall apply the following standards:

1) As soon as the employee becomes aware of an impending period of disability, the employee shall notify the appropriate supervisor and provide a written statement by the attending physician or other authority of the approximate length of time the employee will be unable to perform regularly assigned duties;~~A substantial portion of regularly assigned duties shall be those duties or responsibilities normally performed by the employee that constitute a significant portion of the employee's time or that constitute the factors differentiatingthat particular position from other positions, provided the balance of duties can be reassigned by the department;~~

2) A request for disability leave shall be in writing, except when the department is advised by other appropriate means of the employee's disability. In this event, the employee's signature is not required;

3) Except for service-connected disability as provided in subsection (g)~~Section 420.630~~, the employee shall have exhausted available sick leave provided under Section 420.610 prior to being granted a disability leave; an employee may use other accrued paid time for this purpose, but

is not required to do so;

4) During a disability leave, the disabled employee shall provide written verification by a person licensed under the Medical Practice Act of 1987 [225 ILCS 60] or under similar laws of Illinois or of other states or countries, or by an individual authorized by a recognized religious denomination to treat by prayer or spiritual means. The verification shall show the diagnosis, prognosis and expected duration of the disability and shall be made no less often than every 30 days during a period of disability, unless the nature of the disability precludes the need for such frequency of verification;

~~5) As soon as an employee becomes aware of an impending period of disability, the employee shall notify the appropriate supervisor and provide a written statement by the attending physician of the approximate length of time the employee will be unable to perform regularly assigned duties;~~

~~6) If the department has reason to believe that the employee is able or unable to perform a substantial portion of their regularly assigned duties, it may seek and rely upon the decision of an impartial physician or other specialist licensed pursuant to the Medical Practice Act [225 ILCS 60] in the field of the alleged disability chosen by agreement of the parties, or in the absence of such agreement, upon the decision of an impartial physician or other specialist licensed pursuant to the Medical Practice Act who is selected by the Director of Personnel.~~

c) Termination of Leave:

1) Failure of an employee to provide verification of continued disability upon reasonable request shall, on due notice, cause termination of the leave.

2)~~d)~~ An employee's disability leave shall terminate when the employee is no longer temporarily disabled and is capable of~~from~~ performing regularly assigned duties.

A)~~1)~~ An employee is~~Employees are~~ no longer temporarily disabled when he/she is~~they are~~ able to perform ~~their~~ regularly assigned duties upon advice of the appropriate authority (i.e., attending

physician, an impartial physician, or other authority).

B)~~2)~~ An employee is no longer temporarily disabled when he/she is found to be permanently disabled and unable to perform a substantial or significant portion of his/her regularly assigned duties by the appropriate authority, or in the absence of that authority, by the attending physician.

C) If the department has reason to believe that an employee is able or unable to perform a substantial portion of the regularly assigned duties, it may seek and rely upon the decision of an impartial physician or other specialist licensed pursuant to the Medical Practice Act [225 ILCS 60] in the field of the alleged disability chosen by agreement of the parties or, in the absence of an agreement, upon the decision of an impartial physician or other specialist licensed pursuant to the Medical Practice Act who is selected by the Director of Personnel or the Illinois Department of Central Management Services.

D)~~3)~~ In determining whether to approve a requested discharge of an employee for failure to return from a disability leave or for physical inability to perform the duties of a position, the Director of Personnel may seek and rely upon the advice of the State Employees Retirement System or other appropriate authority, including an impartial physician selected in accordance with subsection (c)(2)(C~~b~~)~~(6)~~.

d)~~e)~~ An employee who returns from a disability leave shall have the rights set forth in Section 420.680 or subsection (g)(6), whichever applies.

e)~~f)~~ An employee who is on disability leave while in temporary or emergency status, except if that status results from a leave of absence to accept a temporary or emergency position, shall be eligible for disability leave for the balance of the appointment and shall earn or accrue no other benefit arising from this Part.

f) Up to 12 weeks of leave time out of any 12 month period may be designated as leave time under the Family and Medical Leave Act (FMLA) (29 USC 2601 et seq.). Designated FMLA leave time will run concurrently with the disability leave or workers' compensation grace time, provided the absence is due to a

qualifying serious injury or illness.

g) An employee who suffers an on-the-job injury or illness and is unable to perform a substantial portion of the regularly assigned duties in accordance with subsection (a) shall also be subject to the following:

1) Upon request, an employee will be allowed full pay for 3 working days of absence without utilization of any accumulated sick leave or other benefits if a workers' compensation claim is filed and approved pursuant to the Workers' Compensation Act.

2) Starting with the 4th working day of absence, the employee shall be permitted, but not required, to utilize accumulated sick leave or other benefit leave time, or may be granted a non-service disability leave of absence pending outcome of the employee's workers' compensation claim. During the leave granted under this subsection (g)(2), the employee may not apply for disability benefits with the Illinois State Employees Retirement System. The employee shall not be required to exhaust available sick time accumulated in accordance with Section 420.610 to be granted this leave.

3) If the employee's workers' compensation claim is deemed subject to benefits provided in the Workers' Compensation Act, the employee will be placed on a service-connected disability leave of absence. The employee shall not be required to exhaust available sick time accumulated in accordance with Section 420.610 to be granted this leave.

4) In the event the service-connected injury or illness is not deemed subject to benefits under the Act, the employee will be placed on a non-service disability leave of absence or may use accumulated benefit time to cover any absences related to the incident.

5) In the event the service-connected injury or illness becomes the subject of an award by the Illinois Workers' Compensation Commission or a settlement contract approved by the Illinois Workers' Compensation Commission, the employee may restore to the State the payment received as sick leave or other benefit leave time and the employee's leave account shall be credited with leave time equivalents.

6) An employee who returns from a service-connected disability leave of absence shall be returned to the same or similar position in the same class in which the employee was incumbent at the time the leave commenced.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.775 Victims' Economic Security and Safety Leave**

In accordance with the Victims' Economic Safety and Security Act [820 ILCS 180], a permanent employee of the Office of the Secretary of State or a participant in a work assignment as a condition of receipt of federal or State income-based public assistance, who is a victim of domestic or sexual violence or has a family or household member who is a victim of domestic or sexual violence, shall be entitled to a total of 12 work weeks of unpaid leave in a 12 month period. The 12 month period shall commence with the effective date of the first date of leave. An employee who returns from a leave granted under this Section shall have the rights set forth in Section 420.680.

(Source: Added at 36 Ill. Reg. 12125, effective July 16, 2012)

**Section 420.830 Holidays**

a) Authorized Holidays: All scheduled employees shall have time off, with full salary payment, on the following holidays or dates when the~~such~~ holidays are observed:

New Year's Day

Martin Luther King Day

Lincoln's Birthday

Presidents' Day

Memorial Day

Independence Day

Labor Day

Columbus Day

Veteran's Day

Thanksgiving Day (which shall include the Friday immediately following)

Christmas Eve

Christmas Day

General Election Day (on which Members of the House of Representatives are elected)

and any additional days proclaimed as holidays ~~or nonworking days~~ by the Governor or the Secretary of State of the State of Illinois or by the President of the United States.

b) Holiday Observance: Subject to any applicable federal or State laws, when employees are scheduled and required to work on a holiday, equivalent time off will be granted within the following 12 month period at a time convenient to the employee and consistent with the department's operating needs.

c) Holiday During Vacation: When a holiday falls on an employee's regularly scheduled work day during the employee's vacation period, the employee's account will not be charged for accrued vacation time for that day.

d) Eligibility for Holiday Pay: To be eligible for holiday pay, the employee shall be in pay status for the total scheduled hours on the employee's last scheduled work day before the holiday and first scheduled work day after the holiday unless absence on either or both of these work days is for good cause and approved by the department. Dock in pay approved in accordance with FMLA shall be deemed the same as pay status for purposes of this Section.

e) Holidays − Regional or Special: The Secretary or the Director of Personnel may grant employees full or partial days off with pay to meet the unique needs of any region or area within the State. Special time off shall not accrue to any other employee in any other region or area of the State. The Secretary or the Director of Personnel may grant employees full or partial days off with pay to meet the special needs of the Office of the Secretary of State.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

SUBPART E: GENERAL PROVISIONS

**Section 420.1020 Prohibition of Discrimination**

a) Discrimination, as defined by the Illinois Human Rights Act [775 ILCS 5], the Civil Rights Act of 1964 (42 USC 2000(d) et seq.), the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.), the Genetic Information Nondiscrimination Act of 2008 (42 USC 2000(ff) et seq.), the Age Discrimination Act of 1967 (29 USC 621 et seq.), the Equal Pay Act of 1963 (29 USC 206 et seq.), or other federal or State law or regulation, against any person in recruitment, examination, appointment, training, promotion, retention, or any other personnel transaction, or because of ~~age, disability, gender, marital status, national origin, political affiliation, race, religion, sexual orientation,~~ membership in or activity on behalf of employee labor organizations, or any other non-merit factor is prohibited. The Director of Personnel will use bona fide occupational qualifications for consistency purposes in making employment decisions.

b) Any applicant or employee who feels adversely affected in employment because of discrimination shall have resort to the grievance procedure established in Section 420.600.

(Source: Amended at 36 Ill. Reg. 12125, effective July 16, 2012)

OFFICE OF THE TREASURER

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Uniform Disposition of Unclaimed Property Act

2) Code Citation: 74 Ill. Adm. Code 760

3)

| Section Numbers: | Adopted Action: |
|---|---|
| 760.94 | Amendment |
| 760.100 | Amendment |

4) Statutory Authority: Implementing and authorized by the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025]

5) Effective Date of Rulemaking: July 12, 2012

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: April 20, 2012; 36 Ill. Reg. 6008

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

11) Differences between proposal and final version: In Section 760.94(c), JCAR made one non-substantive editing change that has been incorporated into the final version of the administrative rule.

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: Having not been updated since 1992, the proposed changes bring greater compliance with the Act's intent to safe keep property, return property to its rightful owner, and to accomplish both in the most practical manner.

OFFICE OF THE TREASURER

NOTICE OF ADOPTED AMENDMENTS

Because a significant number of claimants come forward after publication and initial outreach attempts, Section 760.94 is amended to base the sale date of the securities and commodities off of the publication date. This change allows for a claimant to reclaim the property in the same form it was remitted (e.g., it has not been liquidated) and removes an inherent regulatory conflict in the current rule by basing the sale of a security or commodity off of its publication date rather than its receipt date.

Similarly, the amended Section 760.100 removes the unnecessary requirement of having the claimant's signature guaranteed by an officer with a bank or other financial institution when claiming an asset in excess of $5,000. This requirement is unneeded given other evidentiary requirements placed on each claimant, such as identity verification and proof of property ownership.

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

Bradley A. Rightnowar
Assistant General Counsel
Office of Illinois State Treasurer Dan Rutherford
One West Old State Capitol Plaza
Suite 400
Springfield, Illinois 62701

217/785-6998
217/557-9365 [facsimile]

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

OFFICE OF THE TREASURER

NOTICE OF ADOPTED AMENDMENTS

TITLE 74: PUBLIC FINANCE
CHAPTER V: TREASURER

PART 760
UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

Section

760.10 Definitions
760.15 Presumption of Abandonment
760.20 Negative Reports
760.21 Reporting
760.22 Format/Form of Reports
760.24 Incomplete/Inaccurate Report or Remittance
760.25 Filing Extensions
760.30 Safe Deposit Boxes
760.35 Due Diligence
760.40 Cost of Mailing
760.50 Nominee and Street Name Property
760.60 Lawful Charges
760.70 Discontinuance of Interest or Dividends
760.80 Statute of Limitations (Repealed)
760.85 Situs
760.89 Fees
760.90 Examination of Property Holders
760.92 Remittance of Securities and Commodities
760.94 Receipt and Sale of Securities and Commodities
760.95 Examination Gap
760.100 Claims
760.110 Hearings on Claims
760.115 Non-Claim Hearings

AUTHORITY: Implementing and authorized by Section 26 of the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025/26].

SOURCE: Filed November 20, 1977; emergency amendment at 3 Ill. Reg. 39, p. 225, effective September 14, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 48, p. 153, effective November 20, 1979; rules repealed, new rules adopted and codified at 8 Ill. Reg. 1464, effective January 18, 1984; amended at 15 Ill. Reg. 8555, effective May 24, 1991; amended at 17 Ill. Reg. 123, effective December 21, 1992; emergency amendment at 17 Ill. Reg. 6321, effective April 6,

1993; amended at 17 Ill. Reg. 9893, effective June 21, 1993; amended at 18 Ill. Reg. 18001, effective December 12, 1994; amended at 20 Ill. Reg. 8325, effective June 8, 1996; recodified from the Department of Financial Institutions (38 Ill. Adm. Code 180) to the State Treasurer, pursuant to PA 91-16, at 26 Ill. Reg. 8164; emergency amendment at 28 Ill. Reg. 13919, effective October 5, 2004, for a maximum of 150 days; emergency expired March 3, 2005; amended at 36 Ill. Reg. 12162, effective July 12, 2012.

**Section 760.94 Receipt and Sale of Securities and Commodities**

a) Securities and commodities received by the State Treasurer as unclaimed property shall be sold no sooner~~as soon as practical and not later~~ than one year or later than two years from the date of their respective publications pursuant to Section 12 of the Act, ~~receipt~~ subject to the following:

1) The~~Securities and commodities shall not be sold prior to ninety (90) calendar days subsequent to the date of the first publication of the owner's name(s) and address(es), pursuant to Section 12 of the Act; unless the~~ Treasurer or the Treasurer's authorized representative determines it would be in the best interests of the owner (such as: responding to a tender offer, bankruptcy filing, liquidation, adverse or favorable market conditions) for the sale to occur prior to the expiration of the one year period following the publication of the securities or commodities~~ninety (90) calendar day period~~.

2) Securities and commodities eligible for sale will not be sold when a claim has been filed with the Treasurer by a potential owner, heir or agent. However, upon approval of a claim, the owner, heir or agent may request the Treasurer to dispose of the securities or, commodities by sale and remit the net proceeds to the owner, heir or agent, or, upon disapproval of the claim, the Treasurer shall ~~by sale~~ dispose of the securities or commodities by sale.

b) Securities and commodities that~~which~~ become reportable abandoned property under the Act, when remitted to the Treasurer, must include all interest, dividends~~dividend(s)~~, stock splits~~split(s)~~, if any, warrants~~,~~ or other rights even though the~~said~~ interest, dividends~~dividend(s)~~, stock splits~~splits(s)~~, warrants~~,~~ or other rights standing alone would not be reportable abandoned property.

c) Interest, dividends~~dividend(s)~~, stock splits~~split(s)~~, warrants~~,~~ or other rights

that~~which~~ become reportable abandoned property under the Act~~,~~ must, when remitted to the Treasurer, include the underlying security or commodity giving rise to the interest, dividends~~dividend(s)~~, ~~or~~ splits~~split(s)~~, warrants~~,~~ or other rights.

(Source: Amended at 36 Ill. Reg. 12162, effective July 12, 2012)

**Section 760.100 Claims**

a) Filing of Claims~~.~~

1) Claims shall be prepared and filed only on the following forms, provided by the State Treasurer~~, which shall provide,~~ upon request~~, the following~~:

A) Owner Claim Form;

B) Owner~~,~~ Indemnification Form;

C) Holder Claim Form;

D) Corporate Claim Form;

E) Heir/Other Claim Form; or

F) Small Estate Affidavit.

2) The claimant shall assert on the appropriate form that he or she is the true owner of the unclaimed property and agrees to indemnify and hold harmless the Treasurer, its officers and employees, and the State of Illinois in the event of a successful claim to the~~such~~ property by another claimant.

3) If the subject property is valued at more than $100~~500.00 but less than $5,000.00~~, the signatures~~signature(s)~~ of the claimants~~claimant(s)~~ shall be notarized by a notary public or be guaranteed by an officer of a bank or financial institution with which the claimants~~claimant(s)~~ currently do~~does~~ business.

~~4) If the subject property is valued at $5,000.00 or more, the signature(s) of the claimant(s) shall be guaranteed by an officer of a bank or other financial institution with which the claimant(s) currently does business.~~

4~~5~~) If a claimant~~the claimant(s)~~ is the owner and the value of the property does not exceed $500~~.00~~, a fully completed owner claim form and owner indemnification form, submitted to the Treasurer, will be accepted as "proof of claim", unless the Treasurer has facts within its knowledge that~~which~~ would rebut the claim.

5~~6~~) If the subject property is a two-party check, the claimant must, in addition to submitting a fully completed claim form:

A) submit the original check; or

B) submit verification in the form of an affidavit from the issuing agent of the check that the claimant~~claimant(s)~~ is the true owner of the check and the issuing agent would pay the value of the check to the claimant~~claimant(s)~~ if the issuing agent had not remitted the funds to the Director; or

C) post a surety bond, issued by an insurance company with an A+ or A rating by A.M. Best and Company, in the amount of the check.

b) Assignment of Interest~~.~~
The Treasurer shall consider the claim of a designee or attorney-in-fact of any claimant, provided that:

1) a properly executed and notarized release of interest or power of attorney is submitted with the claim form; ~~and~~

2) the person filing the claim has submitted an affidavit stating that the claimant is the true owner of the property; ~~and~~

3) claim proceeds shall only be delivered to the rightful owner; and

4) compensation shall not exceed 10% of the claim amount collected,~~;~~ except as provided by Section 20(c) of the Act.

(Source: Amended at 36 Ill. Reg. 12162, effective July 12, 2012)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC HEARING

1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Register Citation to Notice of Proposed Rules: 36 Ill. Reg. 7971; May 25, 2012

4) Date, Time and Location of Public Hearing: August 21, 2012

1:30 p.m. – 3:30 p.m.
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

5) Other Pertinent Information: Persons interested in presenting testimony are advised that the Department will adhere to the following procedures:

a. Each person who wishes to present testimony at the hearing must provide a written (preferably typed) summary of such testimony to the Department on or before the close of business Friday, August 10, 2012. The summary should be directed to Debra M. Boggess at the address listed below.

b. Persons who submit written summaries before the deadline and who wish totestify at the hearing will be allotted 5 minutes within which to present testimony.

c. To allow for an orderly hearing process, the Department reserves the right to limit duplicative testimony.

6) Name and Address of Agency Contact Person: Questions regarding the public hearing on the proposed rulemaking may be directed to:

Debra M. Boggess
Associate Counsel, Sales & Excise Taxes
Legal Services Division, 5-500
Illinois Department of Revenue
101 W. Jefferson
Springfield, IL 62794

217/782-2844

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 July 10, 2012 through July 16, 2012 and have been scheduled for review by the Committee at its August 14, 2012 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 |
|---|---|---|---|
| 8/22/12 | Department of Financial and Professional Regulation, Currency Exchange Act (38 Ill. Adm. Code 120) | 3/9/12 36 Ill. Reg. 3591 | 8/14/12 |
| 8/24/12 | Secretary of State, Department of Personnel (80 Ill. Adm. Code 420) | 5/11/12 36 Ill. Reg. 6998 | 8/14/12 |

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY RECOMMENDATION
TO PROPOSED RULEMAKING

ENVIRONMENTAL PROTECTION AGENCY

1) Heading of Part: Environmental Laboratory Certification Fee Rules

2) Code Citation: 35 Ill. Adm. Code 185

3) Section Numbers: 185.201

4) Notice of Proposal Published in Illinois Register: 12/30/11; 35 Ill. Reg. 20983

5) Summary of Rulemaking: Codifies EPA's current administrative and certification fees assessed for a lab's participation in the environmental laboratory certification program.

6) JCAR Action: Recommendation; 4/17/12; 36 Ill. Reg. 6867

7) Basis for JCAR Action: JCAR recommended that EPA update its rules prior to implementing new policies and procedures, not after.

8) Agency Response: The assessment schedule that is the subject of this rulemaking was not promulgated via this rulemaking. EPA does not have the authority to establish such a schedule via rulemaking; it is merely updating the Part to reflect the schedule currently in effect. Pursuant to the Act, the schedule took effect upon the Environmental Laboratory Certification Committee's concurrence with EPA's proposed schedule.

9) Basis for JCAR Determination of Failure to Remedy: The IAPA requires any agency policy to be expressed through rules and declares that the IAPA has supremacy over other statutes in this regard. Regardless, EPA will endeavor to update its rules as soon as possible after future changes to the schedule.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

Heading of the Part: Intern Training Program

Code Citation: 20 Ill. Adm. Code 1725

Section Numbers:

| | | | | |
|---|---|---|---|---|
| 1725.101 | 1725.202 | 1725.208 | 1725.305 | 1725.311 |
| 1725.102 | 1725.203 | 1725.209 | 1725.306 | 1725.312 |
| 1725.103 | 1725.204 | 1725.301 | 1725.307 | 1725.App. A |
| 1725.104 | 1725.205 | 1725.302 | 1725.308 | |
| 1725.105 | 1725.206 | 1725.303 | 1725.309 | |
| 1725.201 | 1725.207 | 1725.304 | 1725.310 | |

Date Originally Published in the Illinois Register: 4/6/12
36 Ill. Reg. 5077

At its meeting on 7/10/12, the Joint Committee on Administrative Rules objected to the above-cited rulemaking because of the Law Enforcement Training and Standards Board's delay in adopting its rules titled Intern Training Program (20 Ill. Adm. Code 1725; 36 Ill. Reg. 5077), which was created by a 1997 statute. The agency implemented this program through policy not created in rule, in violation of Section 5-10 of the IAPA.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF VETERANS' AFFAIRS

Heading of the Part: Payment of Maintenance Charges and Income Management at the Illinois Veterans Homes

Code Citation: 95 Ill. Adm. Code 108

Section Numbers: 108.50 108.70 108.130

Date Originally Published in the Illinois Register: 4/6/12
36 Ill. Reg. 5450

At its meeting on 7/10/12, the Joint Committee on Administrative Rules objected to the above-cited rulemaking because the rulemaking states that DVA will establish outside of rule the policy for determining the amount of the allowance for a dependent that will be deducted before calculating a resident's maintenance charge. Under Section 5-10 of the IAPA, agency policy maintained outside of rule is not enforceable.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2012 SECOND QUARTER INCOME TAX SUNSHINE INDEX

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the 2nd Quarter of 2012. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110.) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120.)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Allocation
Alternative Apportionment
Credits – Enterprise Zone Investment Credit
Subtraction Modifications – Pensions
Subtraction Modifications – Other Rulings

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1 per opinion plus 50¢ per page for each page over one. Copies of the

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ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov.

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 and 2011 are available for $3. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for $4.

3. Name and address of person to contact concerning this information:

Linda Settle
Illinois Department of Revenue
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794

Telephone: (217) 782-7055

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ALLOCATION

IT 12-0009-GIL 04/16/2012 Nonresident individual is not taxable on gain realized on sale of stock in a corporation doing business in Illinois unless the sale was made in connection with a business the individual was conducting in Illinois.

ALTERNATIVE APPORTIONMENT

IT 12-0011-GIL 05/15/2012 Petition for alternative apportionment does not contain sufficient information to allow a ruling.

CREDITS – ENTERPRISE ZONE INVESTMENT CREDIT

IT 12-0012-GIL 05/15/2012 Deemed contribution of property on which an enterprise zone investment credit has been claimed to another taxpayer when sale of an interest in a disregarded entity that made the investment requires the separate existence of the entity to be recognized is an event requiring recapture of the credit.

SUBTRACTION MODIFICATIONS – PENSIONS

IT 12-0013-GIL 05/24/2012 Pension paid by an Italian corporation and social security payments by the Italian government do not qualify for subtraction.

SUBTRACTION MODIFICATIONS – OTHER RULINGS

IT 12-0010-GIL 05/15/2012 No subtraction is allowed for amounts included in gross income under IRC Section 45B.

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1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515

2. Summary of information:

Index of Department of Revenue Sales and Miscellaneous Tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 2012. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110.) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120.)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Cigarette Tax
Claims for Credit
Computer Software
Construction Contractors
Delivery Charges
Enterprise Zones
Gross Receipts
Hotel Operators' Tax
Leasing
Miscellaneous
Motor Vehicles
Sale at Retail
Service Occupation Tax
Telecommunications Excise Tax
Trade-Ins

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Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for $3.

3. Name and address of person to contact concerning this information:

Linda Settle
Illinois Department of Revenue
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794

217/782-7055

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CIGARETTE TAX

ST 12-0030-GIL 06/16/2012 Stamped or unstamped cigarette packages may be sold or transferred between licensed cigarette distributors. See FY 2012-09.

CLAIMS FOR CREDIT

ST 12-0028-GIL 06/15/2012 This letter discusses claims for credit. See 86 Ill. Adm. Code 130.1501.

COMPUTER SOFTWARE

ST 12-0022-GIL 04/27/2012 Canned computer software is considered taxable tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. See 86 Ill. Adm. Code 130.1935.

CONSTRUCTION CONTRACTORS

ST 12-0027-GIL 06/15/2012 When a construction contractor permanently affixes tangible personal property to real property, the contractor is deemed the end user of that tangible personal property. As the end user, the contractor incurs Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 130.1940 and 130.2075.

DELIVERY CHARGES

ST 12-0029-GIL 06/15/2012 Charges designated as delivery or transportation charges are not taxable if it can be shown that they are both agreed to separately from the selling price of the tangible personal property which is sold and that such charges are actually reflective of the costs of shipping. See 86 Ill. Adm. Code 130.415.

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ENTERPRISE ZONES

ST 12-0003-PLR 04/02/2012 Sales of tangible personal property to be used or consumed in the operation of pollution control facilities located in an enterprise zone and certified by the Department of Commerce and Economic Opportunity are exempt from the tax imposed by the Retailers' Occupation Tax Act. See 35 ILCS 120/1e; 86 Ill. Adm. Code 130.1951(i).

GROSS RECEIPTS

ST 12-0006-PLR 06/15/2012 When a retailer allows a purchaser a discount from the selling price on the basis of a coupon for which the retailer receives no reimbursement from any source, the amount of such discount is not include in gross receipts for calculating Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2125.

HOTEL OPERATORS' TAX

ST 12-0020-GIL 04/02/2012 The Hotel Operators' Occupation Tax Act is imposed upon hotel operators engaged in the business. Hotel operators are permitted to ask guests renting rooms to pay a corresponding reimbursement for the tax. See 86 Ill. Adm. Code 480.101.

LEASING

ST 12-0025-GIL 06/14/2012 Information regarding the tax liabilities in lease situations may be found at 86 Ill. Adm. Code 130.220 and 130.2010.

MISCELLANEOUS

ST 12-0023-GIL 05/16/2012 This letter discusses the Prepaid Wireless 9-1-1 Surcharge Act. See 50 ILCS 753.

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MOTOR VEHICLES

ST 12-0021-GIL 04/04/2012 An out-of-state leasing company that sells a vehicle located in Illinois at the end of a lease to an Illinois purchaser must report the sale on Form ST-556, Sales Tax Transaction Return. See Illinois Department of Revenue Compliance Alert 2011-09 (April 2011).

SALE AT RETAIL

ST 12-0024-GIL 05/18/2012 This letter concerns purchases of food and drinks by exempt organizations or their members. See 86 Ill. Adm. Code 130.2145(b).

SERVICE OCCUPATION TAX

ST 12-0031-GIL 06/29/2012 This letter concerns tax imposed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.

TELECOMMUNICATIONS EXCISE TAX

ST 12-0026-GIL 06/15/2012 This letter concerns the very limited exemptions from Telecommunications Excise Tax. See 35 ILCS 630/2.

TRADE-INS

ST 12-0004-PLR 06/14/2012 This letter discusses advance trade-ins of motor vehicles. See 86 Ill. Adm. Code 130.455.

ST 12-0005-PLR 06/14/2012 This letter concerns advance trade-in transactions by a lessor of motor vehicles. See 86 Ill. Adm. Code 130.455.

# ILLINOIS ADMINISTRATIVE CODE
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